

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 ----- X
4 UNITED STATES OF AMERICA : 14-CR-094

5 -against- US District Court
6 Central Islip, NY
7 JOSEPH VALERIO,
8 Defendant. : July 25, 2016
9 ----- X 11 am

10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE JOSEPH F. BIANCO
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES :

14 For the Government:

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(Call to Order of the Court. Appearances stated
as indicated above.)

3 THE COURT: Good morning.

4 Mr. Valerio is present as well.

As you know, this is a scheduled date for the Fatico hearing. I did receive the government's letter late last week, indicating there was an issue with one of the witnesses from South Africa.

Is that correct?

10 MR. KABRAWALA: That's correct, Judge. She is
11 not available but we are scheduling her testimony. We
12 have consulted with defense counsel and will certainly
13 propose a date after conferring with your Honor's deputy.

14 THE COURT: In terms of the order of witnesses
15 today, how do you wish to proceed?

16 MR. KABRAWALA: We are first going to call Lucy
17 Down. She is an au pair who was hired to work for
18 Mr. Valerio. That will be followed by Jolene Leonardo,
19 who worked for the au pair agency.

20 The third witness will be Olena Kalichenko, who
21 we understand is here today. The government is not
22 technically calling her. We will be happy to direct her
23 testimony to get the relevant facts out that are relevant
24 to the proceeding, but we are open to suggestion from the
25 court as to how the court wants to handle Miss

1 Kalichenko's testimony, given that the government is not
2 calling her, per se.

3 THE COURT: Yes. I would expect the government
4 would do the direct examination.

5 MR. KABRAWALA: Perfect.

6 THE COURT: I saw that Mr. LaRusso was here
7 before. Is he gone now?

8 MR. KABRAWALA: Mr. LaRusso is here.

9 MR. LaPINTA: Do you want me to get him?

10 THE COURT: Is he is out there? I just want to
11 make sure he understands, because he wasn't here when I
12 initially extended that invitation.

13 (Robert LaRusso, Esq., enters the courtroom.)

14 THE COURT: Good morning, Mr. LaRusso.

15 I saw you sitting back there before. I just
16 asked the government who the witnesses are for today.

17 You weren't part of the discussion when we were
18 scheduling this Fatico hearing. You probably have already
19 spoken to both sides, but I invited Ms. Kalichenko to
20 testify in connection with the issues at this Fatico
21 hearing.

22 As you know from the government's letters, they
23 are not intending to make any motion in connection with
24 her sentence, under 5K1.1 or 3553e, but I also want you
25 and Ms. Kalichenko, and I will explain this to her when we

1 get to that point, I am not compelling her testimony in
2 this case. This is voluntary. I am not ordering her to
3 testify at this hearing.

4 If she wishes to testify, I am willing to hear
5 her testimony based upon some of the things that she said,
6 as you know, at the time she was considering her guilty
7 plea, with regard to alleged treatment by Mr. Valerio.
8 But I'm not compelling her to testify.

9 So I just wanted you to be aware. I don't want
10 there to be a miscommunication that the judge is ordering
11 her to testify, because that is not the posture we are in.

12 MR. LaRUSSO: Your Honor, to the contrary.
13 Weeks and weeks ago I received the exact same information
14 from the government, almost line for line the way you just
15 described it. I have gone over that with my client. She
16 understands that there are no promises being made
17 anywhere; that the government is not going to be writing
18 the 5K letter.

19 We went over it at least two or three times, and
20 she is well aware that her appearance here today is
21 strictly voluntary. You can inquire of her and she will
22 answer the questions I hope in the same way she has been.

23 THE COURT: They have indicated that she is the
24 third witness today, so obviously you don't have to hang
25 around the whole day. I don't know how long the other

1 witnesses are going to take.

2 MR. KABRAWALA: The other witnesses will be
3 relatively brief. I expect Ms. Down and Ms. Leonardo will
4 be finished within the hour, depending upon how much cross
5 there would be. And I don't expect there to be much
6 cross. Of course I leave that to the defense.

7 THE COURT: All right. So you are free,
8 obviously, to hang around if you want, Mr. LaRusso.

9 MR. LaRUSSO: Under those circumstances, I will.

10 The only question that I have, and I don't know,
11 and I have spoken to both sides regarding it, how the
12 court would like to proceed relative to the questioning of
13 Ms. Kalichenko.

14 THE COURT: I mentioned to the government that
15 even though they are not calling her, I'm going to ask
16 that they conduct the direct examination. Okay?

17 MR. LaRUSSO: Very good. Thank you, your Honor.

18 THE COURT: All right. Does the defense have
19 anything they wish to raise with me before we have the
20 first witness?

21 MR. LaPINTA: No. Thank you.

22 MR. KABRAWALA: Judge, one housekeeping matter.

23 The government asks that Exhibits 5A, 6 and 7,
24 they are records related to the InterExchange company, the
25 au pair agency, be admitted. There is a record

1 declaration that is Government Exhibit 8 that covers those
2 forgoing exhibits. We ask that those be admitted into
3 evidence.

4 THE COURT: Any objection to that?

5 MR. LATO: May I have a minute to confer with
6 Mr. Kabrawala?

7 THE COURT: Sure.

8 (There was a pause in the proceedings.)

9 MR. LATO: Your Honor, as there is no jury here,
10 this is my proposal.

11 I will consent subject to connection. I know
12 the rules of evidence are relaxed here, but it still has
13 to have some indicia of reliability that basically it is
14 what it purports to be.

15 So if in fact the government meets the burden --
16 and I presume that they will in the end -- I will say we
17 consent. So at this point, let's go forward. I can't
18 make the argument now. My guess is they will lay the
19 proper foundation.

20 So let's proceed as if it is in, but I reserve
21 my right at the end to say the documents lack sufficient
22 indicia of reliability to be admitted even at a Fatico
23 hearing.

24 THE COURT: All right. I will let you reserve
25 any objections, but obviously we will use them in

1 connection with this hearing.

2 MR. KABRAWALA: To accelerate the process, with
3 the court's indulgence, may I please leave a binder of the
4 exhibits up on the podium?

5 THE COURT: Yes.

6 Is Ms. Down here?

7 MR. KABRAWALA: Yes, your Honor. I will call
8 her.

9 And for the record, we are also joined by Agents
10 Troy and Messineo of the FBI, and Ms. Langone of
11 Probation.

12 THE COURT: Miss Down, if you could, come up to
13 the witness stand here and remain standing for the oath.

14

15 LUCY DOWN

16 called by the Government, having been first duly
17 sworn/affirmed, was examined and testified as
18 follows:

19 THE COURT: Go ahead, Mr. Kabrawala.

20 MR. KABRAWALA: Thank you, your Honor.

21

22 DIRECT EXAMINATION

23 BY MR. KABRAWALA:

24 Q. Good morning.

25 A. Hi.

1 THE COURT: Could you just pull a little closer
2 to the mic.

3 Thank you.

4 BY MR. KABRAWALA:

5 Q. Miss Down, where are you from?

6 A. England.

7 Q. Did you travel here pursuant to a subpoena for your
8 testimony?

9 A. Yes.

10 Q. And how old are you?

11 A. I'm 22.

12 Q. Would you please speak up a little bit.

13 A. Sorry. Yes.

14 Q. Thank you so much.

15 What is your highest level of education?

16 A. I have an extended diploma in business studies.

17 Q. How old were you when you obtained that degree?

18 A. 18 years old.

19 Q. And are you currently employed?

20 A. Yes. In the UK.

21 Q. What do you do?

22 A. I'm a service advisor for a Land Rover dealership.

23 Q. I want to speak to you today about your interactions
24 with an individual named Joseph Valerio.

25 Do you see Mr. Valerio in this courtroom here

1 today?

2 A. Yes.

3 Q. Can you please point out Mr. Valerio by identifying
4 him by an article of clothing he's wearing.

5 A. There, with the gray jumpsuit on.

6 MR. KABRAWALA: Your Honor, we would ask the
7 record to please reflect that the witness has identified
8 Mr. Valerio.

9 THE COURT: Yes.

10 BY MR. KABRAWALA:

11 Q. Now, Ms. Down, it is my understanding that you were
12 going to serve as an au pair for Mr. Valerio. Is that
13 correct?

14 A. Yes, that's correct.

15 Q. Can you please tell us how and approximately when you
16 decided to become an au pair.

17 A. I finished college at the age of 18, in May of 2012,
18 and decided to travel and was always interested in the
19 United States, so I applied to the GAP company.

20 Q. Had you visited the United States before that?

21 A. No.

22 Q. So this was to be your first time in the US.

23 A. Yes.

24 Q. Is there any particular agency that coordinated your
25 au pair employment?

1 A. Yes. InterExchange.

2 Q. InterExchange. Was that known by any other name in
3 the United States?

4 A. In the UK it was called GAP 360.

5 Q. How did you find them?

6 A. I found them on line.

7 Q. How long did you expect the au pair program to last?

8 A. It's a year, and you get, and you work for the eleven
9 months for your chosen family, and then you have a month
10 of travel at the end by choice.

11 Q. Can you please describe how the au pair matching
12 program works.

13 A. So you have a database on line that the InterExchange
14 set up, and GAP 306, they set up so families can view your
15 profile as an au pair.

16 Q. And are you able to review profiles of potential host
17 families?

18 A. I couldn't. I can once they want to see my profile.

19 So once they see my information, then I can view
20 theirs.

21 Q. Now, did there come a time when you connected with
22 Mr. Valerio in an effort to prospectively serve as an au
23 pair in his household?

24 A. Yes. So he viewed my profile and then requested an
25 interview.

1 Q. How did that request come about?

2 A. So it comes through the database. So firstly you get
3 information that he's viewing, and then you get
4 information that he's going to view your, he's requesting
5 a Skype interview with yourself.

6 Q. How did you communicate with Mr. Valerio in order to
7 set up an interview?

8 A. On the InterExchange website, they have like an email
9 messenger that you can correspond with.

10 Q. Do you see the giant binder in front of you?

11 A. Yes.

12 Q. Could you please turn to Exhibit 5A.

13 (Mr. LaPinta and Mr. Kabrawala confer.)

14 BY MR. KABRAWALA:

15 Q. Do you see that?

16 Why don't you thumb through it for a moment, and
17 I'm going to be directing your attention to the 10th page.

18 The page numbers are actually marked at the
19 bottom. And starting from that page, if you can.

20 So thumb through the rest of that exhibit, and
21 let me know when you are done.

22 A. Okay.

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. What is this, generally?

1 A. So this is the messages from myself and Joe Valerio
2 on the InterExchange website arranging the interview.

3 Q. And to the best of your knowledge, does this fairly
4 and accurately represent the conversations that you had
5 via this email program built into the InterExchange
6 website?

7 A. Yes.

8 MR. KABRAWALA: The government moves to admit
9 Government Exhibit 5A into evidence.

10 MR. LaPINTA: I object only insofar as a number
11 of the emails seem to pertain to other people besides this
12 witness.

13 I understand that he's offering them presumably
14 as a business record, but a number of the these emails do
15 not pertain to these emails.

16 THE COURT: In 5?

17 MR. LaPINTA: 5A.

18 THE COURT: You have no objection to the ones
19 that pertain to this witness. Correct?

20 MR. LaPINTA: I do not.

21 THE COURT: So I'm going admit the ones that
22 pertain to this witness.

23 Again, as Mr. Lato said earlier, I will reserve
24 your ability to object to the other ones. Okay.

25 MR. LaPINTA: Yes.

1 (Government Exhibit 5A in evidence.)

2 BY MR. KABRAWALA:

3 Q. Now, is it fair to say that email exchanges between
4 you and Mr. Valerio in this exhibit essentially pertain to
5 scheduling an interview and coordinating your arrival in
6 the United States?

7 A. Yes.

8 MR. LaPINTA: I'm going to object to the form of
9 the question, your Honor.

10 THE COURT: Sustained as to form.

11 BY MR. KABRAWALA:

12 Q. What are these emails about?

13 A. Organizing the initial interview and then
14 corresponding regarding information for when I'm due to
15 arrive in the United States.

16 Q. On InterExchange email page 10, the bottom email. Do
17 you see where I'm looking?

18 A. Page 10. Yes.

19 Q. The bottom email.

20 A. Yes.

21 Q. It talks about the program Skype?

22 A. Yes.

23 Q. That is the video conferencing application?

24 A. Yes.

25 Q. Did you in fact have an interview with Mr. Valerio

1 via Skype?

2 A. Yes.

3 Q. Approximately when did you speak to Mr. Valerio via
4 Skype?

5 A. I can't remember specifically, but going by the
6 information, I'm assuming it was the 17th at 8 pm.

7 Q. Of September 2012?

8 A. Yes.

9 Q. Now, can you please describe what you and Mr. Valerio
10 discussed during this Skype interview.

11 A. We discussed like my upbringing, where I live,
12 regarding myself.

13 I asked him questions regarding the daughter,
14 the child care, what I would have to do, where he lives,
15 information about the surroundings. We just found what I
16 do, hobbies, et cetera.

17 Q. You mentioned a daughter. Did Mr. Valerio tell you
18 that he had a daughter?

19 A. Yes.

20 Q. What did Mr. Valerio say his daughter's name was?

21 A. [REDACTED]

22 Q. [REDACTED]. Did Mr. Valerio tell you what [REDACTED] age
23 was at that time?

24 A. I remember it being 8 years old.

25 Q. Did Mr. Valerio tell you what [REDACTED] interests

1 were, during this Skype interview?

2 A. From what I remember, she was into dancing. That's
3 all I remember.

4 Q. During that Skype interview with Mr. Valerio, did
5 Mr. Valerio tell you what you would be doing in connection
6 with your duties and responsibilities as an au pair within
7 his household?

8 A. Yes. So I would be looking after his daughter.

9 Driving. I would be able to drive the vehicle. I would
10 drive the vehicle to various hobbies. And weekends as
11 well. So I would be doing basic child care for her.

12 Q. Did Mr. Valeria tell you anything about the child's
13 mother?

14 A. Yes. So he said, gave me brief details. She isn't
15 around, they were separated, but she would have [REDACTED] at
16 certain times so I would drive [REDACTED] to the mother's if
17 need be.

18 Q. Did Mr. Valerio tell you anything else about the
19 mother or her condition or her life circumstances?

20 A. He did say something from, I have a bad memory of
21 this, but that she was ill. But that's all I can
22 remember.

23 Q. I want you to please turn to page 12.

24 I'm showing it to counsel.

25 And I'm referring to the bottom message.

1 A. Umm-hmm.

2 Q. Just reading this aloud, it appears to be to Lucy
3 Down, September 18, 2012, at 10:34 am. Joseph Valerio to
4 Lucy Down.

5 Let me know if I don't read it correctly.

6 Yes, it would be brilliant 4, as in the number
7 four, sure, exclamation mark, like a diamond in the sky.

8 I think it's more than just a maybe. It's
9 something to try. With all the good we spoke about, it's
10 very quite possible you should be the one because you
11 happen to be a lot of fun.

12 Shall I confirm our match? And we'll get it
13 done. Joe.

14 Did I read that correctly?

15 A. Yes.

16 Q. What's he talking about here, to your understanding?

17 A. To my understanding, that the Skype interview went
18 well and he was willing to match as an au pair.

19 Q. So is it fair to say after your match -- withdrawn.

20 What happened after you two were matched?

21 A. So InterExchange and GAP 360 gathered the details,
22 and then they corresponded with me regarding getting my
23 visa, flight, when I would be going to the US.

24 Q. Approximately when did you travel to the United
25 States and where did you land?

1 A. I believe it was the 22nd of October 2012. And I
2 arrived at JFK Airport.

3 Q. What happened next?

4 A. They got me to the New Yorker Hotel, where I stayed
5 with other au pairs on the same kind of program.

6 Q. How long did you stay at the New Yorker Hotel with
7 the other au pairs?

8 A. Five days.

9 Q. What did you do during that five-day period, in
10 general?

11 A. It was coordination. So various training child-care
12 information. Obviously, emergencies in the United States.
13 Various details about child care and the US.

14 Q. So is it fair to say you had like an orientation
15 program for five days?

16 A. Yes.

17 Q. How many au pairs generally, approximately, were
18 there during that training?

19 A. I'd say altogether about 18 of us.

20 Q. Now, during that training program, were you told what
21 to do in case of an emergency?

22 A. Yes.

23 Q. And what do you remember about that?

24 A. They gave us details about the InterExchange office
25 and the emergency number of the United States.

1 Q. What happened at the end of the training period?

2 A. So we finished the orientation in au pair, and we all
3 got collected by our families at the end of the week.

4 Q. Who came to get you?

5 A. Mr. Valerio.

6 Q. And what happened next?

7 A. So he picked me up in the evening, and we got in the
8 car. And we were driving to get something to eat and he
9 was asking about what I had done in the week regarding
10 orientation.

11 Q. How was he behaving toward you, either physically or
12 verbally?

13 A. Just, we were just talking. I was asking questions
14 regarding [REDACTED], and he was asking questions regarding
15 how my week was in New York.

16 Q. What if anything did Mr. Valerio tell you about
17 [REDACTED], during that car trip?

18 A. That she wasn't his child.

19 Q. Was not his child?

20 A. No.

21 Q. And what did you say or how did you react to that?

22 A. I was shocked, because I was wondering why I was
23 there for.

24 Q. Did you ask him that?

25 A. Yes.

1 Q. What did he say?

2 A. He said that he would explain further when we got
3 back to, when we were done with our meal, but he needed
4 someone at the house. That's what I remember in that
5 conversation.

6 Q. Did you in fact have a meal before you went back to
7 Long Island?

8 A. Yes.

9 Q. And at some point that evening, did you get back to
10 his house in Long Island?

11 A. Yes.

12 Q. What happened once you got there?

13 A. To his house?

14 Q. Correct.

15 A. So we went back to his house. It was quite late at
16 night, I remember. Took my bags in. Walking through the
17 house. Took my bags straight upstairs into, he showed me
18 where my bedroom would be, and so I put my bags in there.

19 He then offered me a drink. So I went back
20 downstairs, into a media room, I guess.

21 Q. Let me stop you right there. On the car ride back,
22 did you two discuss anything about what plans, if any,
23 there he might be for you in the United States?

24 A. So I was asking back to what he would need me for, et
25 cetera, in the same conversation. He mentioned a party

1 that we were going to go to.

2 Q. What sort of party?

3 A. I believe it was a Halloween party, in my memory.

4 Q. Did he tell you what kind of costume he wanted you to
5 wear?

6 A. Yes. He mentioned me wearing panty hose with nothing
7 else.

8 Q. Do they use that term, panty hose, in the United
9 Kingdom?

10 A. No. I didn't know what it was.

11 Q. So accelerating to the house again. Sounds like you
12 got a tour of the house.

13 A. Yes.

14 Q. What happened next? Or what happened during the tour
15 of the house?

16 A. So he showed me obviously my room.

17 Q. By the way, what did your room look like?

18 A. It was a bit rundown room. There was a --

19 MR. LaPINTA: I'm sorry. I didn't understand.

20 Could you repeat that, please?

21 THE WITNESS: What? About the room?

22 MR. LaPINTA: Yes. Please.

23 BY MR. KABRAWALA:

24 Q. Yes.

25 A. It was like a rundown room.

1 You walk in. On the left there was a glass-door
2 wardrobe that was, I remember, being slightly broken. The
3 bed wasn't made. And it had a make-up vanity on the
4 right, from what I remember.

5 Q. What was going through your mind at that time?

6 MR. LATO: Objection.

7 THE COURT: Overruled.

8 BY MR. KABRAWALA:

9 Q. What was going through your mind at that time?

10 A. I was scared. I didn't know why I was there. I was
11 a bit nervous. I was nervous anyway, but, you know, I was
12 scared.

13 Q. Did you have a mobile phone?

14 A. No.

15 Q. Did you have any ability to contact the police?

16 A. No.

17 Q. What happened next?

18 A. So I went downstairs, got a drink, and I sat in the
19 media room. And then Mr. Valerio came in.

20 Q. How was he dressed?

21 A. He was he in, he was then in boxers and a wife beater
22 tanktop.

23 Q. What happened after that?

24 A. So he sat next to me. And I sat there for about five
25 minutes and then I wanted to go to bed.

1 Q. At any point up until that moment, had Mr. Valerio
2 touched you in any way?

3 A. Yes, like various trying to touch my hand. Just
4 trying to, but just touched my hand. But I got myself a
5 distance.

6 Q. What happened after that? Did you go to bed at all?

7 A. Yes. I went straight up to bed then.

8 Q. And did you sleep the entire night?

9 A. I was still, had jet lag and had a long week so I was
10 pretty tired so I went to bed.

11 Mr. Valerio brought up like a cover, because the
12 bed wasn't made, but I didn't bother making it. I just
13 went, just closed the door and I just fell asleep, and
14 then woke up about 4 am, I'd say.

15 Q. What did you do when you woke up?

16 A. So I had my laptop. So I obviously didn't have
17 anything else to contact anyone. I walked downstairs to
18 see if I could use the phone line, but it didn't work or I
19 didn't know how to work it but I couldn't call.

20 So I went back upstairs and there was an office
21 opposite my room. I went in to see if there was like a
22 Wi-Fi password, and I couldn't find one anywhere. So I
23 just went back to my laptop, opened it up, and I got the
24 Wi-Fi and started emailing my dad in the UK.

25 Q. What happened after that?

1 A. Just continuously emailing my dad to see if he would
2 pick up, because it would have been about 9 am in UK time.

3 Q. Did your dad respond?

4 A. It took about an hour, but yes.

5 Q. What was his reaction?

6 A. Well, the first, initial email was obviously
7 questioning why I was emailing about a hundred times.
8 Excuse me. And then obviously he replied saying: Please
9 get on Skype. And that's when I called him on Skype.

10 Q. What did you say?

11 A. How any father would react. Like what do I do? He
12 wasn't anywhere near me.

13 Q. What did you --

14 MR. LaPINTA: I'm sorry. I didn't understand.

15 Can you repeat that last answer, please.

16 THE WITNESS: Okay. What, how my dad reacted?

17 So he was obviously asking what to do. What do
18 I do? He was really panicking.

19 BY MR. KABRAWALA:

20 Q. What did you do?

21 A. I just explained the situation I was in. Where I
22 was. And then he said he tried to get hold of the GAP 360
23 in the UK.

24 Q. Did you ultimately connect with somebody at GAP 360
25 in the UK or InterExchange?

1 A. Once my dad got hold of them, I then got a Skype call
2 from a lady called Emma Larby, who was in the UK GAP 360.

3 Q. What did you and Ms. Larby talk about?

4 A. Just spoke about my situation. What happened. What
5 I was doing. From what I remember, she was talking me
6 through what she would then do.

7 Q. What did she tell you to do?

8 A. She said: Sit tight. Someone will be coming to get
9 you shortly.

10 Q. Did Mr. Valerio come into your room or otherwise
11 interact with you during this period of time that you were
12 speaking either to your father via Skype or Ms. Larby?

13 A. Yes. So he came in and opened the door. He was
14 asking me what was wrong, because I'd obviously been
15 crying. So he asked what was wrong. What was going on.

16 I just explained, obviously I'd been on Skype
17 with my parents, just home sick, not to make, not to let
18 him know what the situation was for calling Skype to GAP
19 360.

20 Q. What happened after that?

21 A. Then he left again. So I was speaking to Emma, and
22 she said pack your bags.

23 I'm trying to remember this. She said the
24 coordinator for the area for the au pairs will be coming
25 to get you. We are in contact with her now.

1 Q. What happened after that?

2 A. From my memory, when I started to get my things
3 together, and then carried, had my laptop on my lap, had
4 everything together.

5 So I'm going downstairs. Then Mr. Valerio was
6 questioning what I was doing. I'm assuming no one had got
7 in contacted with him at this point from InterExchange.
8 And I said I'm getting picked up.

9 It's hard to remember this, but I stayed on
10 Skype to Emma Larbu, the GAP 360 representative.

11 Q. How was Mr. Valerio behaving or acting during this
12 time period while you were waiting to be picked up?

13 MR. LaPINTA: Objection.

14 THE COURT: Overruled.

15 THE COURT: You can answer.

16 THE WITNESS: Okay.

17 A. He was acting quite shocked and just asking questions
18 and telling me to grow up, quite aggressively.

19 Q. Anything else?

20 A. Saying various things like I could offer you such a
21 lot of money. He's going into this sort of thing.
22 Storming around the house.

23 Q. How did you feel?

24 A. Intimidated.

25 Q. About how much time passed between you coming

1 downstairs and then you being picked up?

2 A. It probably felt longer than it actually was. I
3 would say 20 minutes, tops. It might be less than that.

4 Q. Do you recall getting picked up?

5 A. Yes.

6 Q. And what happened? Who picked you up and what
7 happened when they picked you up?

8 A. Jolene Leonardo came and picked me up. She knocked on
9 the door. I got up; went to answer it.

10 And then she tried to ask Mr. Valerio what went
11 on: What's going on? What's happened? And he said I'm
12 not answering anything, and just slammed the door.

13 Q. All right. Did you go back to the United Kingdom
14 shortly thereafter?

15 A. I was in the United States for about a week after
16 that.

17 Q. Where did you stay?

18 A. At Jolene Leonardo's house.

19 Q. Do you connect with any other family to work for
20 them?

21 A. I was looking into a family in California, but there
22 was a hurricane so there was no way to travel. So after
23 that I decided to go home.

24 Q. There was a hurricane? Hurricane Sandy?

25 A. Umm-hmm.

1 Q. Is that yes?

2 A. Yes.

3 Q. So you stayed with Ms. Leonardo's family during that
4 hurricane time period?

5 A. Yes.

6 Q. And then you returned to the United Kingdom after
7 that?

8 A. Yes.

9 Q. You saw Miss Leonardo right outside today?

10 A. Yes.

11 Q. You were reunited with her?

12 A. Yes

13 Q. Had you seen or spoken with Miss Leonardo before your
14 reunion just a few minutes ago?

15 A. No.

16 MR. KABRAWALA: Your Honor, the government
17 doesn't have anything further at this time.

18 THE COURT: Cross-examination.

19 MR. LaPINTA: One moment please.

20 (There was a pause in the proceedings.)

21

22 CROSS-EXAMINATION

23 BY MR. LaPINTA:

24 Q. Good morning, Ms. Down.

25 A. Hi.

1 Q. Ms. Down, my name is Mr. LaPinta. I represent
2 Mr. Valerio. I'm going to ask you some questions about
3 your testimony and about what happened to you during this
4 time period.

5 Do you understand?

6 A. Yes.

7 Q. Okay. I'm not going to yell at you. I'm not going
8 to scream at you. I'm not going to pound my fist. I'm
9 just going to ask particular questions. Okay?

10 A. Yes.

11 Q. So please be as comfortable as you can in light of
12 the circumstances. Okay?

13 A. Okay. Yes.

14 Q. All right. If you don't understand my question,
15 please let me know and I will either reask it or rephrase
16 it for you. Okay?

17 A. Okay. Thank you.

18 Q. You're welcome.

19 Ms. Down, a few times when you were answering
20 questions before, you had alluded to the fact about your
21 memory.

22 A. Yes.

23 Q. Okay? And it is clear that this incident took place
24 around four years ago. Correct?

25 A. Yes.

1 Q. Actually, more -- a little less than four years ago.

2 Right?

3 A. Yes.

4 Q. Would you agree with me obviously that due to the
5 passage of time, you have certain problems remembering
6 certain things? Correct?

7 A. Yes.

8 Q. And your testimony that you just gave is the best
9 shot at your recollection of what happened. Correct?

10 A. Yes.

11 Q. But it may not be precisely what happened. Right?

12 A. Yes.

13 Q. And what was said may not be precisely what was said.
14 Right?

15 A. Yes.

16 Q. And what you said may not be precisely what you said.
17 Right?

18 A. Yes.

19 Q. Okay. Now, before taking the witness stand this
20 morning, did you look over any documents to refresh your
21 recollection of what happened four years ago?

22 A. Yes.

23 Q. What documents did you review, Miss Down?

24 A. My statement from two years ago.

25 Q. Okay. And that would be the statement that you made

1 to the authorities in the UK two years ago. Correct?

2 A. Yes.

3 Q. Now let's talk a little bit about that statement.

4 Okay?

5 A. Okay.

6 Q. Now, we just established that this event happened

7 close to four years ago. Right?

8 A. Yes.

9 Q. And you gave the statement to the UK authorities two

10 years after the incident. Right?

11 A. Yes.

12 Q. And would it be fair to say that when you left

13 Mr. Valerio's home the day that you described, you didn't

14 contact the police then? Right?

15 A. Right.

16 Q. And you didn't make any police reports then. Right?

17 A. Right.

18 Q. And when you were back at the home of the

19 administrator that you had stayed at a week after relaxing

20 and coming to terms with what happened, you didn't notify

21 any authorities then. Right?

22 A. Right.

23 Q. And then two years later you suddenly contacted the

24 authorities. Correct?

25 A. No. They contacted me.

1 Q. Okay. Well, you then write the report. Right?

2 A. Yes.

3 Q. So let's talk about them contacting you. All right?

4 A. Okay.

5 Q. The authorities in the UK reached out to you about
6 this incident. Right?

7 A. Yes.

8 Q. Would it be fair to stay, based upon what happened
9 afterward, that you had no intention of reaching out to
10 the authorities at any time after this? Is that right?

11 A. Right.

12 Q. And when you did meet with the authorities, they
13 explained to you that Mr. Valerio had been arrested here
14 in the United States?

15 A. Yes.

16 Q. And did the authorities then ask you to give this
17 statement?

18 A. Yes.

19 Q. And you complied and gave a statement. Right?

20 A. Yes.

21 Q. Let me take you back to when you first applied to be
22 an au pair. All right?

23 A. Umm-hmm.

24 Q. You explained to Judge Bianco that you did some
25 research on the internet. Correct?

1 A. Yes.

2 Q. And that I believe that was at a point in time in
3 your life when you had just graduated from college, I
4 believe?

5 A. Yes.

6 Q. So obviously you are well versed at the internet.

7 Right?

8 A. Yes.

9 Q. And you had done due diligence in terms of finding an
10 agency that you felt comfortable with. Right?

11 A. Yes.

12 Q. And part of the factors that you considered when
13 picking an agency was how well established the agency was.
14 Right?

15 A. Yes, of course.

16 Q. How complete their application process was with
17 potential host families. Right?

18 A. Yes.

19 Q. And that was an important factor for you in choosing
20 an au pair agency.

21 A. Yes, of course.

22 Q. And you chose this 360 agency, I believe, because you
23 had a keen ability to learn and understand facts about the
24 host family. Right?

25 A. Yes.

1 Q. You were able to see photographs. Right?

2 A. Yes.

3 Q. You were able even to view their application.

4 Correct?

5 A. Yes.

6 Q. So when you had made contact initially with
7 Mr. Valerio, you knew about what was said on the
8 application. Right?

9 A. Yes.

10 Q. And based on that, you took the next step, to engage
11 with him with the prospect of working for him. Correct?

12 A. Yes.

13 Q. Now let's talk about the exchange that you had with
14 him.

15 I believe you said it was on Skype. Right?

16 A. Yes.

17 Q. Now, there is nothing that was said on Skype that was
18 alarming to you. Right?

19 A. Yes.

20 Q. In fact, I believe in one of your reports or
21 interviews you said that he was actually very much a
22 gentleman. Right?

23 A. Yes.

24 Q. And you had researched and done some diligence
25 regarding his circumstances. Right? Prior to the Skype.

1 A. On the database.

2 Q. Correct.

3 A. Yes.

4 Q. And you had an ability to ask him any questions you
5 wanted to, at that point. Right?

6 A. Yes.

7 Q. And you did. Right?

8 A. Yes.

9 Q. You asked him questions that you felt you needed
10 answers for. Right?

11 A. Yes.

12 Q. You asked him questions in order to find a comfort
13 level with him that you were satisfied with. Right?

14 A. Yes.

15 Q. And to find a safety level with him that you were
16 satisfied with. Right?

17 A. Yes.

18 Q. And when you asked particular questions, he never
19 refused to answer those questions, did he?

20 A. No.

21 Q. And when you Skyped with him, he never became angry
22 with you during the Skype, did he?

23 A. No.

24 Q. Now, there came a time when you said there was a
25 match. Right? You agreed --

1 A. Yes.

2 Q. -- to work with him, and he agreed to invite you to
3 the home. Right?

4 A. Yes.

5 Q. And one of the reasons why you selected this agency
6 company is because they actually did a home study previous
7 to this. Right?

8 A. Yes.

9 Q. They went to Mr. Valerio's home and they looked
10 around. Right?

11 A. Yes.

12 Q. And you were satisfied with that investigation that
13 they did. Right?

14 A. Yes.

15 Q. And if you weren't satisfied, you were able to ask
16 your own questions about stuff. Right?

17 A. Yes.

18 Q. But you didn't. Right?

19 A. Umm-hmm.

20 Q. When you went through -- there was a time that you
21 arrived here in New York. Right? A very exciting time, I
22 would think. Right?

23 A. Yes.

24 Q. And you went through a two-week training program at
25 the New Yorker Hotel. Right?

1 A. Yes.

2 Q. And Mr. Kabrawala asked you questions about being
3 trained regarding emergency circumstances. Right?

4 A. Yes.

5 Q. They gave you particular instructions as to what to
6 do if you found yourself in harm's way. Right?

7 A. Yes.

8 Q. And you remember those instructions. Right?

9 A. Yes.

10 Q. Now, you didn't bring a phone with you then. Is that
11 right?

12 A. Umm-hmmm.

13 Well, we get provided a phone once we are with
14 the host family.

15 Q. Okay. So the host family was to provide you with a
16 phone. Is that what you are saying?

17 A. Yes.

18 Q. But you did have your computer with you. Right?

19 A. Yes.

20 Q. Now, when you first met Mr. Valerio, he picked you up
21 I believe at the hotel. Is that right?

22 A. Yes.

23 Q. And then I believe you said that you kind of drove
24 around a bit?

25 A. Yes.

1 Q. And when you met him for the first time, you engaged
2 in a conversation with him. Right?

3 A. Yes.

4 Q. And it was then that he told you that his
5 circumstances had changed. Is that correct?

6 Did he say the circumstances had changed, do you
7 recall?

8 A. Not changed.

9 Q. Did he ever explain to you in the car ride that his
10 circumstances regarding his daughter had changed?

11 A. No.

12 Q. Yes or no?

13 A. No.

14 Q. Did he explain to you in the car ride that his
15 daughter that he intended to be home with him was not home
16 because she was in the UK?

17 A. No.

18 Q. Do you remember that?

19 A. No.

20 Q. Do you remember any information from Mr. Valerio
21 about having a daughter in the UK?

22 A. No.

23 Q. I'm sorry. South Africa. My mistake.

24 A. No.

25 Q. Have you since learned that Mr. Valerio has a

1 daughter in South Africa?

2 A. Since Friday.

3 Q. Now, during that ride, I believe that you said you

4 had dinner?

5 A. Yes.

6 Q. But prior to dinner, you had a normal conversation

7 with him. Right? Yes?

8 A. Yes.

9 Q. And there was nothing that was apparent to you that
10 was a problematic situation then. Right? In terms of how
11 he was speaking about himself? Let me withdraw the
12 question.

13 A. Yes.

14 Q. Regarding his demeanor to you?

15 A. Umm-hmmm.

16 Q. During the ride to the restaurant, there was nothing
17 alarming during that segment of time, was there?

18 A. Well, a bit before, he said he didn't actually have
19 any children.

20 Q. Right.

21 A. Yes.

22 Q. So I guess what you are explaining is, the fact that
23 he said he didn't have any children was alarming to you.

24 A. Yes.

25 Q. Right?

1 Besides that, his demeanor toward you was not
2 alarming. Is that fair to say? At that juncture.

3 A. Not in the car ride.

4 Q. So in the car ride, besides him explaining his
5 daughter was not there, he was otherwise --

6 A. Before the restaurant, yes.

7 Q. Before the restaurant. Okay. So let's talk about
8 the restaurant.

9 A. Okay.

10 Q. He took you to dinner?

11 A. Yes.

12 Q. And it was the two of you that ate together. Right?

13 A. Yes.

14 Q. He didn't force any alcohol upon you, did he?

15 A. He did ask. He bought me alcohol but I declined.

16 Q. But you didn't, you know, do shots with him or have
17 drinking games with him or otherwise attempt to intoxicate
18 you; did he?

19 A. No.

20 Q. He bought you a drink and you respectfully declined
21 to drink it. Correct?

22 A. Umm-hmmm.

23 Q. Yes?

24 A. Yes.

25 Q. And would you agree that during the dinner, that his

1 demeanor was respectful and polite?

2 A. What do you mean?

3 Q. Well, he wasn't angry with you at the dinner, was he?

4 A. No.

5 Q. He wasn't threatening you at the dinner, was he?

6 A. No.

7 Q. He wasn't saying anything verbally to you that in
8 your opinion was inappropriate. Right?

9 A. Not saying, no.

10 Q. This was a public restaurant. Right?

11 A. Yes.

12 Q. And there were people dining in that area. Correct?

13 A. Yes.

14 Q. You weren't alone with him there. Right?

15 A. Yes.

16 Q. And is it fair to say that at this point in time you
17 didn't feel any danger at all; did you?

18 A. I did.

19 Q. Okay. Well, you felt danger but you didn't reach out
20 to anyone that was there to be reached out to. Right?

21 A. Right.

22 Q. And there were people that were all around there.
23 Right?

24 A. Right.

25 Q. When you left --

1 A. Yes.

2 Q. -- you could have spoken to someone on your way out.

3 Right?

4 A. Right.

5 Q. You could have gone to the ladies' room and spoken to
6 the manager. Right?

7 A. Right.

8 Q. You could have asked to use the phone. Right?

9 A. Right.

10 Q. But you didn't, did you?

11 A. Right.

12 Q. There came a time when you drove back to the home.

13 Correct?

14 A. Right.

15 Q. And during the conversation at that time, certain
16 things happened. I believe you said in one of the reports
17 that he would touch your hand. Is that right?

18 A. Right.

19 Q. Would he grab your hand and squeeze your hand? Would
20 he touch the top of your hand?

21 Describe how he would touch your hand.

22 A. Touched the top.

23 Q. Okay. During that ride, he didn't touch any other
24 area of your body. Right?

25 A. No.

1 Q. He didn't attempt to touch any other area of your
2 body. Right?

3 A. Right.

4 Q. And was it at that time when he explained to you
5 about this Halloween party?

6 A. In the car.

7 Q. Okay.

8 A. Not in the house.

9 Q. Well, we haven't reached the house yet. We are in
10 the car.

11 A. Sorry.

12 Q. So in the car, to the house --

13 A. Yes.

14 Q. -- is when he spoke to you about the Halloween party?

15 A. Yes.

16 Q. And when he told you about this party, did you tell
17 him that you weren't interested in going?

18 A. I was just trying -- I didn't say anything.

19 Q. And did he, when he explained that he had this
20 costume, did you tell him that you weren't interested in
21 wearing such a costume?

22 A. I didn't say anything.

23 Q. You had no reaction to any of this?

24 Is that yes or no?

25 A. No.

1 Q. Ms. Down, at any time before arriving at the home,
2 did Mr. Valerio explain to you that his sister had a
3 daughter that he was looking to have an au pair care for?

4 A. That I remember.

5 Q. And again, this is four years ago. He could have
6 said it but you don't remember. Is that right?

7 A. Right.

8 Q. Because, as we said before, you don't remember
9 exactly what was said. Right?

10 A. Right.

11 Q. When you arrived at Mr. Valerio's home, you pulled up
12 in the driveway of the home. Right?

13 A. Yes.

14 Q. And it was at night. Right?

15 A. Yes.

16 Q. But you were able to see that were other homes in
17 that area. Right?

18 A. Yes.

19 Q. I don't know how it is where you live, but is it fair
20 to say that the homes next to him were relatively close?
21 Right?

22 A. Right.

23 Q. There was a home to the left of him. Right?

24 A. I don't remember.

25 Q. Was there a home to the right of him? Do you recall?

1 A. No.

2 Q. How about across the street from him?

3 A. Yes.

4 Q. Okay. And when you got out of the car, you didn't go
5 to any of the homes for help. Right?

6 A. No.

7 Q. And is it fair to say that you didn't go to any of
8 the homes because at that point you didn't particularly
9 feel as though you were in danger? Is that fair to say?

10 A. No.

11 Q. So you consciously decided not --

12 THE COURT: I just want to understand the
13 answer.

14 No, that is not fair to say? Or no, you didn't
15 feel any danger?

16 THE WITNESS: I did feel danger but I, yes, I --

17 BY MR. LaPINTA:

18 Q. So you felt -- well, danger is my word.

19 Would you agree that you felt uncomfortable?

20 A. Uncomfortable.

21 Q. But not in danger. Right?

22 A. I didn't know at this point.

23 Q. When you were taught what to do in an emergency
24 setting --

25 A. Yes.

1 Q. -- one of the things that you were taught would be to
2 run away, if you are capable of running away?

3 A. No.

4 Q. Were you taught to continue to be in a dangerous,
5 perilous situation without resisting? Is that what you
6 were taught?

7 A. No, we weren't taught.

8 Q. You arrived inside the home. Right?

9 A. Right.

10 Q. And you explained on direct examination that
11 Mr. Valerio gave you a tour of the home. Right?

12 A. Right.

13 Q. He showed you the entire home. Right?

14 A. Yes. Downstairs and upstairs.

15 Q. Sorry?

16 A. Downstairs and upstairs. Yes.

17 Q. Well, was there anything more to the house than
18 downstairs and upstairs?

19 A. No, not that I know of.

20 Q. He didn't hide any portions of the home from you or
21 say you can't see that area or not. Right?

22 A. Not that I know of, no.

23 Q. And if you had an interest in seeing a certain area,
24 you would have asked him. Right?

25 A. Right.

1 Q. But you didn't feel a need to do that. Right?

2 A. No.

3 Q. When you arrived in the home, did he then show you
4 your room?

5 A. Yes.

6 Q. Now, when you testified on direct examination, you
7 stated that the room was rundown, your words were. Right?

8 A. Right.

9 Q. Well, isn't it a fact that you had an opportunity to
10 speak to someone about that room before you even agreed to
11 go there? Right?

12 A. What do you mean?

13 Q. Well, the au pair service conducted a home study
14 before. Right?

15 A. Right.

16 Q. Do you know that they took photographs of the room?

17 A. No.

18 Q. Did you ask to see photographs of the room?

19 A. No.

20 Q. At this juncture, when he introduced you to the room
21 where you are staying, would you agree that, besides
22 feeling uncomfortable, that he had not done anything
23 perilous or dangerous to you? Would you agree with that?

24 A. Yes.

25 Q. I believe you said that, after you brought your

1 belongings to the room, you went downstairs and sat on the
2 couch with him. Correct?

3 A. Yes.

4 Q. And you testified that he came downstairs wearing
5 boxer shorts. Right?

6 A. Yes.

7 Q. I didn't quite understand what you said after boxer
8 shorts. What else was he wearing?

9 A. He was wearing a tanktop.

10 Q. Tanktop. Like a wife-beater top?

11 A. Yes.

12 Q. Wife beater: Is that your words or something that
13 someone told you?

14 A. No. A wife beater. A tanktop.

15 Q. Now let's be clear of something here. The term wife
16 beater is your term. Right?

17 A. Yes.

18 Q. Your words that you decided to use to describe that
19 shirt. Right?

20 A. Yes.

21 Q. He never described that shirt as a wife beater shirt.
22 Right?

23 A. No.

24 Q. Nor did anybody that you spoke to --

25 A. No.

1 Q. -- about this investigation. Correct?

2 A. Correct.

3 Q. Regarding his boxer shorts. Were they, are you
4 saying that they were underwear that he was wearing? Or
5 it appeared to look as though they were boxer shorts?

6 A. They appeared to be boxer shorts.

7 Q. Okay. Do you know whether those were the underwear
8 that he was wearing at the time?

9 A. I wouldn't know.

10 Q. Do you know whether he was wearing anything under his
11 boxer shorts?

12 A. I don't know.

13 Q. Could have been but you don't know. Right?

14 A. Right.

15 Q. And it was then when you described to Judge Bianco
16 that he once again touched your hand. Right?

17 A. Right.

18 Q. And that would be the top of your hand?

19 A. The top.

20 Q. With his hand. Correct?

21 A. Right.

22 Q. Let's be clear, Ms. Down. He didn't touch you
23 anywhere else, did he?

24 A. No.

25 Q. He didn't try to touch your breasts, did he?

1 A. No.

2 Q. He didn't try to touch any other private area of your
3 body. Correct?

4 A. No. Correct.

5 Q. Nor did he ever try to kiss you. Is that correct?

6 A. Right.

7 Q. But nevertheless you felt a little intimidated by
8 him. Correct?

9 A. Right.

10 Q. And as a result, you decided to remove yourself from
11 that situation and to go upstairs and go to bed. Right?

12 A. Right.

13 Q. He didn't stop you from going to bed, did he?

14 A. No.

15 Q. He didn't pull your hand or throw you back onto the
16 sofa, did he?

17 A. No.

18 Q. He didn't even try to convince you not to go to bed.
19 Right?

20 A. Right.

21 Q. And because you felt uncomfortable --

22 A. Right.

23 Q. -- you then made attempts to reach out to your
24 parents. Right?

25 A. Right.

1 Q. And you did in fact email your dad a number of times,
2 as you explained?

3 A. Yes.

4 Q. And eventually you made contact?

5 A. Yes.

6 Q. So let's talk about the night that you spent there
7 prior to being picked up in the morning. All right?

8 A. Okay.

9 Q. You were in the room alone. Right?

10 A. Right.

11 Q. At no time during that night when you were in the
12 room did Mr. Valerio come into that room, did he?

13 A. No.

14 Q. At no time did he try to get you out of the room.
15 Right?

16 A. No.

17 Q. At no time did he try to entice you to come into his
18 bed, did he?

19 A. No.

20 Q. And you had, at that point and throughout the entire
21 night, you had access to the entire house. Right?

22 A. Right.

23 Q. In fact you could have left the house in the middle
24 of the night if you wanted to. Right?

25 A. Right.

1 Q. He didn't lock the door of the room and keep you in
2 the room, did he?

3 A. No.

4 Q. Nor did he lock any of the doors to the outside of
5 the house. Correct?

6 A. To the outside?

7 Q. Yes.

8 A. I'm not sure.

9 Q. Okay. But as far as you were aware, you could have
10 left that house at any time during the night, while he was
11 even sleeping. Right?

12 A. Right.

13 Q. And if you did so, he wouldn't have even known that
14 you left, maybe. Right?

15 A. Right.

16 Q. You were picked up the next morning. Right?

17 A. Right.

18 Q. Prior to being picked up, Mr. Valerio had asked you
19 if you were okay. Right?

20 A. Right.

21 Q. He had asked you -- and I believe these are the words
22 that you used -- Is everything okay?, quote-unquote.
23 Right?

24 A. Right.

25 Q. He expressed concern about your wellbeing, didn't he?

1 A. Yes.

2 Q. Okay. You were then picked up.

3 A. Right.

4 Q. You got your belongings and you left the house.

5 Right?

6 A. Right.

7 Q. And you ended up staying for a week with presumably
8 the administrator or the representative from the company.

9 Right?

10 A. Right.

11 Q. Right?

12 A. Yes.

13 Q. You stayed at her house?

14 A. Yes.

15 Q. And I believe you then explained to Judge Bianco it
16 was at that time that you were actually considering going
17 to another family. Right?

18 A. Yes.

19 Q. And that is, after experiencing what you just
20 described, you were willing to go and try it again with
21 someone else. Right?

22 A. Right.

23 Q. But due to Hurricane Sandy, I believe, you weren't
24 able to do so. Right?

25 A. Right.

1 Q. Lastly, Miss Down. Is it fair to say that besides
2 touching the top portion of your hands, Mr. Valerio did
3 not make any other advances toward you?

4 A. Right.

5 MR. LaPINTA: One moment, please.

6 (There was a pause in the proceedings.)

7 MR. LaPINTA: Thank you, Miss Down.

8 THE COURT: Redirect.

9 MR. KABRAWALA: I will be very brief, your.

10 Honor.

11

12 REDIRECT EXAMINATION

13 BY MR. KABRAWALA:

14 Q. Miss Down, if you could, please turn to Exhibit No. 5
15 in the binder, and specifically the penultimate page, the
16 second-to-last page.

17 THE COURT: 5 or 5A?

18 MR. KABRAWALA: 5, Judge. The second-to-last
19 page. The photos.

20 A. Okay.

21 BY MR. KABRAWALA:

22 Q. Do you recognize the photo?

23 A. Yes.

24 Q. And where do you recognize the photo from?

25 A. The InterExchange database.

1 Q. Is that a true depiction of the photo that you recall
2 seeing on the InterExchange database?

3 A. Yes.

4 MR. KABRAWALA: Your Honor, the government moves
5 to admit the second-to-last page of Government Exhibit 5.

6 I will separately mark it for the record at the
7 break.

8 MR. LaPINTA: No objection.

9 THE COURT: That one page of Exhibit 5 is
10 admitted.

11 (Government Exhibit 5 in evidence.)

12 BY MR. KABRAWALA:

13 Q. Is that the photo that you saw of Mr. Valerio on the
14 InterExchange website?

15 A. Yes.

16 Q. Who did you understand that young girl to be, in the
17 picture?

18 A. His daughter.

19 Q. [REDACTED]

20 A. Yes.

21 Q. You were asked earlier, in essence, whether you ever
22 notified any authorities either while in the United States
23 or after. Do you recall those questions?

24 A. Right.

25 Q. And you were asked whether you reported this activity

1 in the United Kingdom once you were back. Do you recall
2 that?

3 A. Yes.

4 Q. Is there a reason you never reported this to the
5 authorities, yourself?

6 A. I just wanted nothing to do with it. I think I was
7 just too scared to do anything.

8 Q. You were also asked whether you could have left the
9 restaurant or Mr. Valerio's home.

10 Do you recall those series of questions?

11 A. Yes.

12 Q. Is there a reason why you didn't leave from the
13 restaurant on your own or leave from Valerio's house on
14 your own?

15 A. I was too scared. Where am I going to go?

16 Q. Had you been in the United States before?

17 A. No.

18 Q. Had you been in New York City before?

19 A. No.

20 Q. Had you been in Long Island before?

21 A. No.

22 Q. Did you have a car or any mode of transportation?

23 A. No.

24 Q. Was it late at night?

25 A. Yes.

1 Q. In the middle of the night?

2 A. Yes.

3 Q. With respect to your car ride from New York City to
4 Long Island, you were asked about the request that you
5 wear a costume, a Halloween costume.

6 A. Right.

7 Q. Do you recall that?

8 A. Yes.

9 Q. Panty hose, I believe?

10 A. Yes.

11 Q. And you were asked what your reaction was or your
12 response was to that request.

13 A. Right.

14 Q. And I believe your response was that you didn't
15 respond.

16 A. Right.

17 Q. Why not? Why didn't you respond to Mr. Valerio and
18 tell him that you weren't going to wear that?

19 A. I'm scared. It could have made it worse.

20 Q. It would have made it worse?

21 A. Yes.

22 Q. You were asked about your memory of these events
23 generally and how it was a number of years ago.

24 Do you recall that?

25 A. Yes.

1 Q. As you sit here today, is there any doubt in your
2 mind that Joseph Valerio, that man that you pointed out,
3 told you that he had a daughter?

4 A. Sorry. Repeat the question?

5 Q. Is there any doubt in your mind that Joseph Valerio
6 before you came to the United States told you that he had
7 a daughter?

8 A. No.

9 Q. Is there any doubt in your mind that he told you his
10 daughter's name was [REDACTED]

11 A. No.

12 Q. Is there any doubt in your mind that he repeatedly
13 touched your hand?

14 A. No.

15 Q. Is there any doubt in your mind that he ordered you a
16 drink?

17 A. No.

18 Q. Is there any doubt in your mind that as you were
19 leaving he was aggressive and stormed around the house?

20 A. No.

21 Q. Is there any doubt in your mind that he was
22 aggressive and told you that he paid a lot of money for
23 you?

24 A. No.

25 MR. KABRAWALA: Your Honor, there is nothing

1 further.

2 THE COURT: Anything further, Mr. LaPinta?

3 MR. LAPINTA: No. Thank you.

4 THE COURT: You can step down, Ms. Down. Thank
5 you.

6 (The witness was excused.)

7 THE COURT: How long is your next witness?

8 MR. KABRAWALA: About 20 minutes, Judge.

9 THE COURT: Why don't we take a 10-minute break,
10 then.

11 (Recess taken from 12:15 pm until 12:40 pm.)

12 THE COURT: Please call your next witness.

13 MR. KABRAWALA: The government calls Jolene
14 Leonardo.

15
16 JOLENE LEONARDO

17 called by the Government, having been first duly
18 sworn/affirmed, was examined and testified as
19 follows:

20
21 DIRECT EXAMINATION
22 BY MR. KABRAWALA:

23 Q. Good afternoon, Ms. Leonardo.

24 Were you subpoenaed to testify here today?

25 A. Yes.

1 Q. What is your current occupation?

2 A. I'm a Catholic school math teacher.

3 Q. Catholic school math teacher?

4 A. Yes.

5 Q. What grade?

6 A. Seventh. Eighth. And I teach ninth grade, too.

7 Q. And have you previously been affiliated or employed
8 with an organization called InterExchange Incorporated?

9 A. Yes.

10 Q. What was your role there?

11 A. I was a local coordinator.

12 Q. Would you mind speaking --

13 A. Local coordinator.

14 Q. -- a little louder?

15 What were your primary duties and
16 responsibilities as a local coordinator?

17 A. Mostly, I'm liaison between the au pair and the host
18 family. I interview the host families. I have the au
19 pairs at my home and coordinate monthly activities and
20 social events for them.

21 I'm like their person in the United States other
22 than their host family.

23 Q. Were you assigned to any particular region or county?

24 A. Yes. I was Long Island Suffolk County. I covered
25 Suffolk County.

1 Q. Drawing your attention to the year 2012.

2 Did you, in the course of your employment with
3 InterExchange, come to meet an individual named Joseph
4 Valerio?

5 A. Yes.

6 Q. Do you see Joseph Valerio in the courtroom here
7 today?

8 A. I believe that's him.

9 Q. Can you please point him out by identifying an
10 article of clothing that he's wearing.

11 A. Light green khaki shirt.

12 Q. Is he seated next to these two gentlemen on my right?

13 A. I don't know. I don't -- I don't know. I don't
14 know. I don't remember.

15 Q. Okay. That's fair.

16 A. I'm sorry.

17 Q. Can you please describe how you met Mr. Valerio.

18 A. I interviewed him at his home.

19 Q. And what was the purpose of that interview?

20 A. He applied to our agency. So I go to see that -- I
21 interview the family, ask what their expectations are, so
22 that we can find a workable match with an au pair; if they
23 have one child or three children; and we try to match them
24 with an au pair that prefers one child, three children.

25 Pets; no pets.

1 So I gather information based on what the host
2 family's expectations are in the program and their au
3 pair.

4 I also check the home. And I have to physically
5 see a bedroom for the au pair that's an appropriate living
6 space. It has to have its own separate door, entrance.
7 If it just has -- it can't be just a part of another room.
8 It can't be shared. They have to have their own private
9 space in the house.

10 So I have to physically see that. And I have to
11 write down that there is a bed and a window. And it can't
12 be a basement apartment, because that's not legal. It
13 just has to be a room.

14 And then just answer any questions the host
15 family has about the program.

16 Q. What did Mr. Valerio tell you about his family
17 situation?

18 A. He told me that him and his wife share custody, he's
19 a single dad, with his daughter. And at that date he had
20 told me that she was in school and she had spent time
21 during the week with him. And at that time she was in
22 school.

23 Q. Did Mr. Valerio tell you anything about the mother of
24 his child?

25 A. Just that they had joint custody.

1 Q. Did he tell you where the mother lived?

2 A. No.

3 Q. What did Mr. Valerio say was his daughter's name?

4 I'm sorry. His child's name?

5 A. [REDACTED]. It was a daughter and it was [REDACTED]. I
6 believe he said she was 7.

7 Q. I would like to show you, in the binder that is in
8 front of you, Exhibit No. 15. So if you could, please
9 turn to tab No. 15.

10 A. Yes.

11 Q. Do you recognize this document?

12 A. Yes. It --

13 Q. You can take it out of the binder --

14 A. -- is the interview sheets that -- the form that I
15 fill out.

16 It is an online form that we fill in the
17 information.

18 Q. Well, is this a form that you fill out, or is this a
19 form that is filled out by Mr. Valerio?

20 A. I fill this out.

21 Wait. Maybe this isn't the one. Hold on.

22 Q. Okay. And this is an application?

23 A. This, yes. This is not my interview form. This is
24 something that the host family would fill out before
25 meeting me, to initiate the process, saying this is what I

1 want.

2 When I go, I try to verify this information:

3 Okay. You said you want this kind of au pair. You want
4 them to do this.

5 And this is what we use to have the
6 face-the-face interview.

7 Q. So this facilitates your interview?

8 A. Correct.

9 Q. The information that is contained in this report, who
10 is that provided by?

11 A. The family. The host family.

12 Q. And is that information obtained in the regular
13 course of InterExchange's business, to your knowledge?

14 A. Yes. This is their first application that -- yes,
15 that they submit to InterExchange.

16 This doesn't go to me, it goes to the company,
17 and then I receive this and I read this and that's how I
18 conduct my interview.

19 Q. And is the information contained in this report
20 obtained and maintain in the regular course of
21 InterExchange's business?

22 A. Do they keep this on file, you mean?

23 Q. Correct.

24 A. Yes.

25 MR. KABRAWALA: Your Honor, the government moves

1 to introduce Government Exhibit 5 into the record.

2 THE COURT: Objection?

3 MR. LaPINTA: No objections.

4 THE COURT: Government Exhibit 5 is admitted.

5 (Government Exhibit 5 in evidence.)

6 BY MR. KABRAWALA:

7 Q. I would like for you to turn to the second-to-last
8 page of Government Exhibit 5.

9 Is this a photograph?

10 A. Yes.

11 Q. Do you recall ever seeing that photograph before?

12 A. Well, it was in that. And I think it was also, on
13 one of the shelves in the den there was a picture like
14 that.

15 Q. In the den of Mr. Valerio's house?

16 A. Yes.

17 Q. And who did you believe the little girl to be?

18 A. It's his daughter.

19 Q. [REDACTED]?

20 A. Yes.

21 Q. I would like to draw your attention to Exhibit No. 6.

22 It is also in the binder.

23 A. Okay.

24 Q. What is this document?

25 A. This is my host family interview that I fill out when

1 I see him.

2 Q. You filled out this report?

3 A. Yes.

4 Q. How did you obtain the information that was
5 contained, that is contained in this host family interview
6 report?

7 A. This is what I bring with me when I physically meet
8 the host family. And this is what I filled out after
9 meeting with Mr. Valerio.

10 Q. And did you fill out the information shortly after
11 you spoke with Mr. Valerio?

12 A. Yes. I write it and then I go home and type it.

13 Q. And to your knowledge is this host family interview
14 report kept on file with InterExchange?

15 A. Yes.

16 MR. KABRAWALA: Your Honor, the government moves
17 to introduce Government Exhibit 6 into the record.

18 THE COURT: Any objection?

19 MR. LaPINTA: No.

20 THE COURT: Government Exhibit 6 is admitted.

21 (Government Exhibit 6 in evidence.)

22 BY MR. KABRAWALA:

23 Q. Let's look at the first page, referring to the very
24 top under the title Instructions to Local Coordinator.

25 What do you understand your instructions to be?

1 A. As far as filling this out?

2 Q. Correct.

3 A. Similar to what I just said, as far as getting his
4 information.

5 The first thing here, where it says regulations
6 and policies, they ask us to read them each time we
7 interview, even if it is the same family, just so that the
8 procedures are clear.

9 Then I have a conversation with them about how
10 many au pairs are in the area and types of activities that
11 we will offer the au pair. Just gathering, I use this to
12 gather information so that we get the best match so that
13 whatever the au pair is looking for fits with what the
14 type of au pair the family wants.

15 Q. When you interviewed Mr. Valerio, you went to his
16 house?

17 A. Yes, I did.

18 Q. Do you recall where his house is?

19 A. Yes. It's in Smithtown.

20 Q. And tell us about the interview.

21 A. It was like most interviews. We sat in his den. I
22 believe I sat on the couch and he sat on a cushioned
23 chair. He told me his daughter was at school. We talked
24 about her.

25 He told me that he had properties; like that he

1 owned different properties, and he did very well for
2 himself and he was looking forward to showing Lucy
3 different places.

4 And that's important in our program, that it is
5 not just the au pair coming in as hired help. We want
6 them to be part of the family. So he said that he
7 traveled a lot and he would anticipate the au pair
8 traveling with him and his daughter.

9 And he showed me the au pair's room, and then I
10 filled out whatever it had, that it had a window and there
11 was a separate room in the house for her. That it just
12 looked like a regular house. I feel like I remember it
13 being sparse, maybe not a lot of color.

14 I remember there being brickwork, like the
15 driveway was being bricked and it was halfway done. So it
16 just looked like a single dad's fixing up a house, living
17 with his kid.

18 Q. What time of day did you interview Mr. Valerio at his
19 home?

20 A. It was in the afternoon, around noon. I can't tell
21 you the exact time. I know it was during school hours,
22 obviously.

23 Q. Was there any requirement to your knowledge that at
24 that time you would have to meet the child?

25 A. There was not, but there since is.

1 Q. Why is that now a requirement?

2 MR. LaPINTA: Objection.

3 THE COURT: Sustained.

4 A. It's absolutely --

5 THE COURT: It was sustained. If I sustain the
6 objection, he is going to ask another question. You can't
7 answer it.

8 THE WITNESS: Okay.

9 BY MR. KABRAWALA:

10 Q. To your knowledge why is that now required?

11 MR. LaPINTA: Objection.

12 THE COURT: It doesn't matter what they are
13 doing now. I don't need to know what they are doing now.
14 Okay?

15 THE WITNESS: Okay.

16 BY MR. KABRAWALA:

17 Q. Now referring to page 4, so it is the last page, and
18 I'm going to be referring to question number 5. It is a
19 check list and it reads as follows.

20 "Please check all adjectives you feel describe
21 the host family."

22 There are a number of check boxes. There are
23 four checked boxes. Correct?

24 A. Yes.

25 Q. Can you read aloud the boxes that are checked.

1 A. Organized. Easy going. Patient. Intellectual.

2 Q. And what do you recall about your interview that
3 caused you to check those boxes; that is, why did you
4 check those boxes, of the options available?

5 A. Mr. Valerio just felt very relaxed compared to host
6 families. Like sometimes they are all nervous and, I
7 don't know, talkative, and whatever. And he was just very
8 relaxed. So he appeared to be decent. He spoke slowly.

9 I don't know. Just that's how he -- he just
10 seemed very -- he didn't ask a lot of questions about all
11 the things the au pair can do or wouldn't do. So it just
12 seemed to me that he was easy going.

13 And I believe I would write organized because
14 there wasn't a lot of stuff everywhere. Just, you know,
15 just the first impression.

16 Q. Turning back to page 3.

17 I'm sorry. If you could, go back one page.

18 Question No. 4.

19 Question: The general condition of the house at
20 the time of the interview can best be described as. And
21 then there is one of four options that are checked. I
22 will read aloud the options.

23 Very neat and clean.

24 Normal lived-in home with children.

25 Extremely casual.

1 Other.

2 Which box is checked?

3 A. "A normal lived-in home with children."

4 Q. Why did you check that box?

5 A. Basically, we use this question to like determine the
6 presentation of the house.

7 To be perfectly honest, if it is very neat and
8 clean, sometimes it is not realistic. If a family has
9 three kids and it is all perfectly in order, you want to
10 know is the au pair going to be responsible for keeping it
11 in a certain order.

12 It is really just to gauge what the expectations
13 are of the home. If it is extremely casual and it is very
14 sloppy and then in two months I get a call that the au
15 pair is not keeping the house tidy, hopefully it sparks
16 like a memory: Your house wasn't perfectly in order. So
17 it's really not the au pair's job to all of a sudden give
18 them an immaculate house.

19 So this is kind of just to gauge what it looks
20 like, the typical living arrangement.

21 So there was no real extreme, so if it's not
22 perfectly in order where the kids' shoes are lying under
23 the doors, which is completely a fact which we see
24 sometimes, and it is not a terrific match, basically the
25 other option is a normal lived-in home.

1 Q. So you want to gauge what the condition is and
2 capture it in a form somehow?

3 A. Yes. How do they live, so that it doesn't change
4 with the expectations down the road of what the host
5 family expects of the au pair to maintain for them.

6 Q. You don't want the au pair to come and be a maid.

7 A. Exactly.

8 Q. Okay. So flipping forward again to page 4 of 4, to
9 question No. 6. It is a yes-or-no check box. And then,
10 if it is yes, please explain.

11 The question is: "Do you have any doubt or
12 reservation as to the suitability of this home?"

13 A. And I checked No.

14 Q. Why did you check that?

15 A. Because I had no reason to have doubts about him at
16 the time of my interview.

17 Q. Did you have any reservations about Mr. Valerio's
18 suitability to participate in the InterExchange au pair
19 program?

20 A. Personally, I thought he was he creepy, but I cannot,
21 I can't decline a family because they give me the creeps.
22 There was something just weird. But that doesn't seem
23 like a viable -- it's just not appropriate.

24 So my choices are yes or no. And I have to give
25 everybody a chance because he didn't demonstrate any

1 concrete evidence of not being appropriate.

2 Q. Did you believe he was telling you the truth about
3 his daughter [REDACTED] and the custody arrangement?

4 A. [REDACTED]?

5 Q. Yes. [REDACTED].

6 A. Yes.

7 Q. If you believed that he was lying to you, what if
8 anything would you have done?

9 MR. LaPINTA: Objection.

10 THE COURT: Sustained.

11 A. I would have --

12 THE COURT: Sustained.

13 THE WITNESS: Oh. Okay.

14 BY MR. KABRAWALA:

15 Q. Did there come a time when you went to Mr. Valerio's
16 house to collect Ms. Down?

17 A. Yes.

18 Q. Can you describe what happened and what your role
19 was.

20 A. I received a call from Lucy's international
21 cooperator saying that she was very upset and felt
22 uncomfortable in the home and wanted to leave the home.
23 So I -- something about there being no child there.

24 And I went and I picked her up. And when I got
25 to the house, Lucy was at the door. She had her laptop

1 open. She was Skyping with her coordinator at the door,
2 with her bag backed.

3 Mr. Valerio was standing next to her. And I
4 opened the front door, saw her holding her laptop, and
5 then she went to grab her bag and he was closing the door.
6 And I think her luggage got caught in the door because he
7 was like literally closing the door on her back. And she
8 pulled it and held her laptop, I think -- I don't -- I
9 think I took the bag from her. I took the bag and I put
10 the bag back in my truck. And he just shut the door and I
11 put the bag in my car and Lucy drove home with me.

12 Q. Did you speak to Mr. Valerio or did he speak to you?

13 A. No. I think he just said I don't understand what's
14 going on, or I don't know what this is, and that was it.
15 There wasn't anything.

16 Q. How was his demeanor or tone?

17 A. Just chilled. Like relaxed. Not anxious. Didn't
18 explain himself. Had nothing. Just weirdly calm.

19 Q. Did Mr. -- sorry. Withdrawn. Did Lucy ever tell you
20 what happened?

21 A. Yes.

22 Q. What did she say?

23 MR. LaPINTA: Objection.

24 THE COURT: Sustained.

25 BY MR. KABRAWALA:

1 Q. Did you ever learn what happened and what caused Lucy
2 to leave so abruptly?

3 A. Yes.

4 MR. LaPINTA: Objection.

5 THE COURT: Sustained. Hearsay.

6 BY MR. KABRAWALA:

7 Q. Did you ever come to speak to Mr. Valerio ever again?

8 A. No.

9 Q. Had you ever heard of a similar situation ever
10 occurring?

11 A. Never.

12 MR. LaPINTA: Objection.

13 A. Never.

14 MR. LaPINTA: Objection.

15 THE COURT: Sustained.

16 MR. KABRAWALA: Just one moment, your Honor.

17 (Prosecutor counsel confer .)

18 MR. KABRAWALA: Nothing further at this time,
19 judge.

20 THE COURT: Cross-examination.

21 MR. LaPINTA: Yes, sir.

22

23 CROSS-EXAMINATION

24 BY MR. LaPINTA:

25 Q. Good afternoon, Miss Leonardo.

1 A. Hi.

2 Q. My name is Anthony LaPinta. I'm just going to ask
3 you a few questions about your testimony.

4 A. Okay.

5 Q. If I don't ask a clear question in your view, or it
6 is unclear in any way, please let me know and I will
7 either reask or rephrase it. Is that okay?

8 A. Sure.

9 Q. You may be nervous. I will just try my best not to
10 confuse you in any way. Okay?

11 A. Umm-hmm.

12 Q. Ms. Leonardo, before taking the witness stand this
13 afternoon, did you review any documents to refresh your
14 recollection?

15 A. Yes. I saw just a tracking sheet of when he,
16 Mr. Valerio, the dates of when he entered the program and
17 the dates that I interviewed him. Just like a timeline
18 list of the material.

19 Q. Would that be in a report that was generated by
20 either your company or the 360 company?

21 A. Yes. My company.

22 Q. Is that a report that you developed?

23 A. No. I don't work for the company any more so this
24 is, I just saw these today.

25 Q. All right. But you had mentioned a particular report

1 that mentioned chronology of events. Is that right?

2 A. Yes.

3 Q. Did you develop that report with that chronology?

4 A. My boss did based on my paper work and their paper
5 work. It's two separate, when he originally --

6 Q. Ms. Leonardo, it's really simple.

7 A. Okay.

8 Q. Did you write the report or not?

9 A. I did not write the report.

10 Q. Now, I thought on your direct testimony you indicated
11 a bit that you don't remember certain things. Is that
12 right?

13 A. If you refresh my memory of what I didn't remember.

14 Q. It is either yes or no. Do you remember everything
15 about this event? Yes or no?

16 A. I think I do. I don't know what I said I didn't
17 know.

18 Q. Well --

19 A. I'm sorry.

20 Q. -- you were asked to pick out Mr. Valerio in court
21 here. Right?

22 A. Yes.

23 Q. And you said you weren't sure who he was.

24 Isn't that what you said? Yes or no?

25 A. Yes.

1 Q. So is it fair to say that you don't have --

2 A. I actually -- like I just got flustered. I really --

3 Q. Stop. Let's do it this way. Let me ask a simple
4 question.

5 A. Okay.

6 Q. Miss Leonardo --

7 A. Yes.

8 Q. -- I'm not looking to confuse you.

9 A. Okay.

10 Q. I just want to be clear.

11 A. Okay.

12 Q. Okay?

13 Let me ask a simple question --

14 A. Okay.

15 Q. -- and then you can give a simple answer.

16 A. Okay.

17 Q. Fair?

18 A. Yes.

19 Q. Isn't it fair to say that on your direct testimony
20 you were not able to identify Mr. Valerio in this
21 courtroom? Yes or no?

22 A. I identified him, yes, and then I got flustered and I
23 don't know why I said that. I do know that he's sitting
24 right here.

25 Q. So is it your testimony that you remember totally

1 everything that transpired exactly how it did? Is that
2 what you are saying?

3 A. I feel like --

4 Q. If you can, answer it yes or no.

5 A. Yes. I feel like, yes, I do.

6 Q. All right. Is there any particular portion of your
7 experience with this situation that you don't remember too
8 well?

9 A. I don't know. You would have to ask me the question.

10 Q. Okay. Let's talk about --

11 A. Lucy lived in my house --

12 Q. Stop. Stop.

13 A. -- a long time so we talked about this for a long
14 time, so I feel like --

15 Q. Miss Leonardo --

16 A. Yes.

17 Q. -- all I'm asking you to do is to answer my
18 questions --

19 A. Okay.

20 Q. -- yes or no --

21 A. Okay.

22 Q. -- and if you are not able to answer yes or no --

23 A. Okay.

24 Q. -- just tell me you can't answer it yes or no.

25 A. Okay.

1 Q. Fair?

2 A. Yes.

3 Q. Okay. So let's start with when you first came to
4 know of the Valerio application. Remember that time
5 period?

6 A. Yes.

7 Q. Okay. Now, is it fair to say that you relied on
8 certain information that was entered into a computer
9 program?

10 A. Yes.

11 Q. Okay. And that as part of your responsibilities as a
12 coordinator for this region, that you looked at that
13 material closely. Yes?

14 A. Yes.

15 Q. And upon your review of that information, there was
16 nothing that was suspicious about it. Yes?

17 A. Correct. Yes.

18 Q. Now, as a match was made and an au pair was selected,
19 it was then your duty as the regional coordinator to
20 investigate that application. Right?

21 A. Yes.

22 Q. As you have done many times prior to that.

23 A. Correct.

24 Q. Right?

25 A. Yes.

1 Q. So at the time that you did the Valerio home
2 inspection, you had conducted numerous prior home
3 inspections. Correct?

4 A. Correct.

5 Q. And were you trained to do home inspections?

6 A. Yes.

7 Q. Did you take classes and instructions to do so?

8 A. I don't know if --

9 Q. You can answer it yes or no.

10 A. I don't know if you would consider it a class or not
11 so I don't know whether I should answer it yes or no.

12 Q. So you are not able to answer it yes or no.

13 A. Sure.

14 Q. Okay. Now, when you did the Valerio home inspection,
15 you had dealt with Mr. Valerio, yourself, on the phone to
16 make the appointment. Correct?

17 A. Yes.

18 Q. And prior to going there, you did your own review of
19 the documents that you were furnished. Correct?

20 A. Correct.

21 Q. Did you do any other investigation, besides the
22 review of the application, at that juncture?

23 A. No.

24 Q. I believe you had explained that when you do the home
25 inspection, that there is a check list, so to speak?

1 A. Yes.

2 Q. Or an application that you follow. Correct?

3 A. A form, yes.

4 Q. So it is a structured --

5 A. Yes.

6 Q. -- type of thing. Correct?

7 A. Yes.

8 Q. So you went into the house. Right?

9 A. Yes.

10 Q. Prior to that you looked around the outside of the
11 house. Right?

12 A. Yes.

13 Q. And it purported (sic) to be what it was made out to
14 be on the application. Right?

15 A. Correct.

16 Q. Nothing alarming, suspicious, or dangerous --

17 A. No.

18 Q. -- in your view at that point.

19 A. Correct.

20 Q. You then went into the house. Right?

21 A. Yes.

22 Q. And you met Mr. Valerio. Right?

23 A. Yes.

24 Q. And you did a home inspection. Right?

25 A. Correct.

1 Q. You asked to see the inside of the home, and he
2 showed you the inside of the home.

3 A. I asked --

4 Q. Just listen. Yes or no or you are not able to answer
5 it yes or no.

6 A. I'm not able to answer it yes or no.

7 Q. Did you ask to do an inspection of the home?

8 A. I asked to do an inspection of the au pair's bedroom.

9 Q. Did you ask -- yes or no - to see any other areas of
10 the home?

11 A. No.

12 Q. You could have if you wanted to. Is that correct?

13 A. Yes.

14 Q. And that is in your sole discretion to do so.

15 Correct?

16 A. Yes.

17 Q. But at the time, you didn't feel a need to see any
18 other area of the home. Right?

19 A. Correct.

20 Q. You felt comfortable, then and there, that it was an
21 appropriate setting for a young, 18-year-old au pair to be
22 in. Correct?

23 A. Yes.

24 Q. And when you looked into the room designated to be
25 the au pair's room, you went inside the room. Right?

1 A. Yes.

2 Q. You looked around. Right?

3 A. Yes.

4 Q. And you were comfortable that it was an appropriate
5 room. Right?

6 A. Yes.

7 Q. Would you agree with me that when you saw it then and
8 there, that that room it was not run down; was it?

9 A. No.

10 Q. If it were run down, you would have made notations of
11 that and presumably this process would have halted there.
12 Correct?

13 A. Correct.

14 Q. Then you had a dialogue with Mr. Valerio about
15 certain aspects of his family life. Correct?

16 A. Right. Well, I made the check list, you know.
17 Oftentimes the rooms are sparse.

18 Q. Just answer yes or no at this point.

19 A. Okay. Go ahead.

20 Q. Did you ever then have a dialog with Mr. Valerio
21 about his qualifications to be a host to the au pair?

22 A. His qualifications? No. Mostly, his expectations.
23 So no.

24 Q. Okay. Did you engage him regarding certain aspects
25 of the relationship with the au pair that you felt

1 necessary to inquire of?

2 A. What? Could you repeat that question?

3 Q. Okay.

4 A. I'm having a little difficulty.

5 Q. Sure. Did you ask him certain questions about the
6 expected relationship with the au pair?

7 A. Yes.

8 Q. You asked him about the family dynamic. Correct?

9 A. Correct.

10 Q. Besides the application that you hand-wrote and then
11 downloaded, did you take any notes during this process?

12 A. That downloaded that note: What do you mean?

13 Q. Besides the handwriting -- one second.

14 A. Did I know --

15 Q. Let's do it this way. If you give me a moment to
16 finish my question, you will then be in a better position
17 to answer.

18 A. I'm sorry. I thought you were finished.

19 Q. Thank you. So besides the application that you had
20 written notes on, did you write, on anything else, any
21 notes that you may have written that day?

22 A. No.

23 It is an interview report. I just want to be
24 clear that it wasn't an application.

25 Q. You had checked off certain things on your evaluation

1 regarding the home. Correct?

2 A. Yes.

3 Q. And you were asked on direct examination the
4 appropriateness of the setting. Correct?

5 A. Yes.

6 Q. And you indicated that it was an appropriate setting.

7 Right?

8 A. Correct.

9 Q. And not only that, it looked like a child had lived
10 there. Correct?

11 A. Correct.

12 Q. Because in your view of the home, you saw indications
13 that a child was there. Right? Yes or no?

14 A. Yes.

15 Q. And when you were complete with this home study, you
16 approved that residence to be qualified to host an au
17 pair. Correct?

18 A. Right. Yes.

19 Q. You felt it was a safe environment. Right?

20 A. Yes.

21 Q. You felt that it was an appropriate environment.

22 Right?

23 A. Yes.

24 Q. And you felt that it was an environment for a child.
25 Correct?

1 A. Yes.

2 Q. But here today you are indicating to Judge Bianco
3 that you had a creepy, weird feeling.

4 A. Not about --

5 Q. Stop. I'm not finished yet.

6 A. Okay. Sorry.

7 Q. You indicated that you had a creepy, weird feeling
8 about Mr. Valerio.

9 A. Correct.

10 Q. Was that your testimony?

11 A. Yes.

12 Q. And despite having a creepy, weird feeling, you
13 approved him to host an 18-year-old au pair.

14 A. Correct.

15 Q. Is that your testimony?

16 A. Yes.

17 Q. You didn't indicate anywhere on any of your documents
18 that you had this weird, creepy feeling. Right?

19 A. Correct.

20 Q. Do you have a weird, creepy feeling about him right
21 now?

22 A. Very, sir.

23 Q. Now, you explained very carefully that from the
24 handwritten items that you wrote on this form, you
25 downloaded that on a computer. Correct?

1 A. Yes.

2 Q. And you entered that information in a system.

3 Correct?

4 A. Correct.

5 Q. And that is Exhibit 6. You have it before you, don't
6 you?

7 A. Yes.

8 Q. Turn to page 3, please, Miss Leonardo. Actually,
9 page 4. I'm sorry.

10 See that page?

11 A. Yes.

12 Q. Where it says: Local Coordinator Jolene Leonardo?

13 A. Yes.

14 Q. You never signed that document. Is that right?

15 The document before you is not signed. Is that
16 right?

17 A. It is a --

18 Q. The document before you is not signed?

19 A. You can't physically sign it. It's an electronic
20 thing.

21 Q. Did you ever sign off on this document?

22 A. I would consider this signed off.

23 Q. By having your name typed there?

24 A. Correct.

25 Q. You had made reference to the point where you had

1 picked up Miss Down. Do you remember that portion of your
2 testimony?

3 A. Yes, I do.

4 Q. And when you went there, you said that Mr. Valerio
5 had stated, in sum and substance, that he didn't
6 understand what was wrong. Right?

7 A. Correct.

8 Q. And you described him as not anxious. Right?

9 A. No.

10 Q. And I believe you had used the word calm. Is that
11 right?

12 A. Yes.

13 Q. He wasn't loud or abusive, was he?

14 A. No.

15 Q. He wasn't threatening in any way, was he?

16 A. No. He just pulled the door.

17 Q. Yes or no?

18 A. No.

19 Q. Because if he were, you would have made note of that.
20 Right?

21 A. Correct.

22 Q. During the course of your dealings, from beginning to
23 end, with Mr. Valerio, had he had mentioned the fact that
24 his sister had a young daughter?

25 A. No.

89

Leonardo - for the Government - Redirect/Mr. Kabrawala

89

1 Q. Have you since learned that?

2 A. I don't really know what I know about that.

3 Q. It's either yes or no. Have you since --

4 A. No, I don't -- no, I don't. There seems to be a lot
5 of confusion.

6 Q. So either yes or no. Have you since learned that he
7 has a daughter?

8 A. No.

9 Q. His sister has a daughter?

10 A. No.

11 (Defense counsel confer.)

12 MR. LaPINTA: I have nothing further. Thank
13 you, Miss Leonardo.

14 THE COURT: Redirect?

15 MR. KABRAWALA: Very brief, judge.

16

17 REDIRECT EXAMINATION

18 BY MR. KABRAWALA:

19 Q. Miss Leonardo?

20 A. Yes.

21 Q. In your experience with InterExchange, have you ever
22 experienced a host family who misrepresented the presence
23 of a child at home?

24 MR. LaPINTA: Objection.

25 A. Never.

1 THE COURT: Sustained.

2 I don't care about other families. Okay? Just
3 focus on this situation.

4 MR. KABRAWALA: There is nothing further.

5 THE COURT: Okay. You can step down, Ms.
6 Leonardo. Thank you.

7 (The witness was excused.)

8 THE COURT: So we will take the lunch break.

9 And you just have Ms. Kalichenko, right?

10 MR. KABRAWALA: For today.

11 THE COURT: I will discuss this with her when
12 she arrives after lunch.

13 I know I asked you to do the direct, but I
14 obviously know there is a long relationship between her
15 and Mr. Valerio, from the trial and from the hearing that
16 she had in connection with her case.

17 I don't want the government to go from start to
18 finish with the relationship. I really just want to hear
19 from her -- at least on direct; obviously, the defense can
20 focus on whatever they wish to focus on. I will hear any
21 objection, obviously.

22 But in terms of the direct, I just want to focus
23 on any threats of violence or acts of violence that
24 Mr. Valerio made toward her in their relationship, if any.

25 Again, the reason I invited her to testify is, I

1 believe at some point in the hearing she made such an
2 allegation. But I don't want you to start from the
3 beginning of her interactions with him.

4 MR. KABRAWALA: Understood.

5 MR. LATO: And for scheduling, since your Honor
6 is obviously familiar with both Mr. Valerio's case and
7 Miss Kalichenko's, my cross will be focused precisely as
8 to her credibility with respect to the allegations, and I
9 am not going to get into all of this other stuff that I
10 know you already are familiar with.

11 THE COURT: Great. Why don't we say 2:15.

12 Thank you.

13 (Lunch recess taken at 1:15 pm.)

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1 A F T E R N O O N S E S S I O N

2 2:35 PM

3

4 THE COURT: Please bring Miss Kalichenko out.

5 MR. KABRAWALA: I have one housekeeping issue.

6 I know the court had requested that certain
7 topics be covered. There is a specific topic that was not
8 specifically addressed by the court; that is, adoption of
9 a child. I think that those are germane to the issues
10 that are before the court. We will move quickly through
11 them toward the end of the direct.

12 THE COURT: Yes. I understand why that may
13 potentially be relevant, so that is fine.

14 (Miss Kalichenko enters the courtroom.)

15 THE COURT: Good afternoon, Miss Kalichenko.

16 In a minute I am going to have you take the
17 oath. But first, I don't know if this was communicated to
18 you during the lunch break, but I have asked the
19 government to focus on any allegations -- actually, let's
20 swear in the interpreters.

21 (Interpreters Nelly Alishaev and Nina Adar Tkach
22 were sworn by the courtroom deputy.)

23 THE COURT: Miss Kalichenko, as with the other
24 conferences, we have the interpreters here, standing by if
25 you need them.

1 Do you understand that?

2 THE WITNESS: Yes, your Honor, I do.

3 THE COURT: So what I was saying was, I want the
4 government to focus on any allegations of any violence or
5 threats of violence as relates to Mr. Valerio. And he may
6 also cover any discussions regarding adopting the child.

7 I know that there are other aspects of your
8 interactions with Mr. Valerio that you have testified
9 about at the hearing that we had and maybe you want to
10 bring to my attention for purpose of your own sentencing,
11 but at least for purposes of direct examination, those are
12 the issues that I want focused on today. Okay?

13 THE WITNESS: Okay. I understand.

14 MR. LATO: Your Honor, just before beginning, do
15 you have defense exhibit stickers so we can save time once
16 we begin?

17 THE COURT: Let's have the witness sworn.

18

19 OLENA KALICHENKO

20 called by the Government, having been first duly
21 sworn/affirmed, was examined and testified as
22 follows:

23

24 DIRECT EXAMINATION

25 BY MR. KABRAWALA:

1 Q. Good afternoon.

2 You are here to testify against Joseph Valerio?

3 A. Yes.

4 Q. You are testifying voluntarily and of your own free
5 will?

6 A. Yes, I am.

7 Q. The government has not compelled you to testify.

8 Correct?

9 A. Correct.

10 Q. No one is forcing to testify. Correct?

11 A. No.

12 Q. And you do not have any sort of agreement with the
13 government to testify.

14 A. No, I don't.

15 Q. You haven't been promised anything in exchange for
16 your testimony here today?

17 A. No.

18 Q. You are testifying here in the hopes of obtaining
19 leniency at your own sentencing. Correct?

20 A. Correct.

21 Q. And you have pleaded guilty to a host of federal
22 crimes. Correct?

23 A. Correct.

24 Q. You pleaded guilty to child exploitation, to child
25 pornography, transmission of child pornography, and

1 related child pornography offenses?

2 A. Yes.

3 Q. And you didn't plead guilty pursuant to any kind of
4 agreement with the government. Correct?

5 A. Correct.

6 Q. I want to draw your attention to an individual named
7 Joseph Valerio.

8 Do you see Joseph Valerio sitting in the
9 courtroom here today? And if so, I ask you to please
10 point him out by identifying an article of clothing that
11 he is wearing.

12 A. Yes, I do. I see him. He's wearings the green
13 clothes.

14 MR. KABRAWALA: Your Honor, may the record
15 please reflect that witness has identified Joseph Valerio?

16 THE COURT: Which chair is he sitting at?

17 THE WITNESS: Next to his attorneys. He is the
18 only person there who is defendant.

19 THE COURT: Is that sufficient for the defense?

20 MR. LATO: Yes.

21 THE COURT: The identification has been made.

22 BY MR. KABRAWALA:

23 Q. I want to briefly talk about your relationship with
24 Mr. Valerio and how it developed.

25 Could you please tell us how you first came to

1 meet Mr. Valerio and how your relationship developed.

2 A. Yes. I remember I met him first through the website,
3 basically where I had my profile and he had his profile as
4 well, mostly for, you know, the communication.

5 And I was looking for a marriage, for a man to,
6 I was, you know, for a husband, a future husband, and a
7 future. I had a child and I was looking for a person who
8 would be like a father for my daughter as well.

9 So that was the reason why I actually started
10 with Mr. Valerio a relationship.

11 Q. You were in the Ukraine at this time when you made
12 contact with Mr. Valerio?

13 A. No. I arrived to the US in June and I contacted him
14 late in June. So I was in the US at that time when I
15 first contacted him.

16 Q. And it was over a website.

17 A. Yes.

18 Q. UkrainianDate.com? (Sic)

19 A. I think so. I think so. I think so.

20 Q. You were looking for a husband and somebody who would
21 be a good father to your daughter.

22 A. That's what he was looking for as well, according to
23 his profile. Yes.

24 Q. And you two decided to meet. Correct?

25 A. That's correct.

1 Q. That was sometime in the summer of 2011?

2 A. Yes. I think it was very, very end of June 2011.

3 Q. Where were you at the time in the United States?

4 A. I was in Dallas, Texas.

5 Q. How did you -- withdrawn. Did you come to meet
6 Mr. Valerio here in Long Island?

7 A. Yes, I came to meet him. He wanted me to come, and I
8 came to meet him in Long Island. Yes.

9 Q. Who paid for your trip?

10 A. Mr. Valerio paid.

11 Q. And when you came to Long Island, did he pick you up
12 at the airport? Did you meet him somewhere?

13 A. Yes. He picked me up at the airport. Yes. I
14 remember. Yes, he picked me up at the airport.

15 Q. Let's back up for a moment.

16 You and I haven't talked about your testimony.

17 Correct?

18 A. This testimony? No.

19 Q. You and I haven't?

20 A. No.

21 Q. We haven't prepared for your testimony?

22 A. No. I didn't talk to you, no.

23 Q. I want the record to be clear that you and I have not
24 talked before today other than in court when I questioned
25 you previously. Right?

1 A. Yes. That's correct.

2 Q. By the way, have you seen Mr. Valerio before today's
3 date, such as in the prison?

4 A. I have seen him twice, yes.

5 Q. Have you spoken with Mr. Valerio?

6 A. No, I haven't spoken to him. It was because they
7 have the visitors room.

8 It is the same room for when the attorneys come.

9 So just when his attorneys came and my attorneys came
10 simultaneously, that was the only reason. But I didn't
11 talk to him, no. Never.

12 Q. Other than seeing him in the prison this couple of
13 times in the attorney visiting room, you didn't interact
14 with him in any way?

15 A. No.

16 Q. So going back to that summer of 2011 when you came to
17 visit Mr. Valerio.

18 Tell us about your hopes for that meeting and
19 tell us about that summer, the time that you spent with
20 Mr. Valerio that summer.

21 A. Yes.

22 I came, I remember, like very late, very late in
23 2011, to his house. I stayed at Smithtown, Long Island.
24 Basically I stayed, this time I didn't stay for a long
25 time. I stayed like, for the first time, like ten days,

1 close to two weeks. But I remember that I was celebrating
2 the Independence Day with him and in his house.

3 And basically so we, at that point we were, you
4 know, at the point of establishing a relationship. And I
5 remember that I met his son, as well, and I also met his
6 mother. So from my point of view, like basically he
7 seemed to be a credible person to me. Because I saw the
8 relationship with his son and I didn't see absolutely
9 nothing that I can say is wrong about his relationship
10 with his own child, like there was, you know. So I stayed
11 for close to 10 days.

12 But my own family at that time, like my mother,
13 she has put my daughter at the orphanage in the Ukraine at
14 that particular time. So basically, because we had no
15 place to live and she lives by herself, they went for
16 Eastern Ukraine but she was living in a shelter. So
17 basically, when I was staying at Mr. Valerio's house, like
18 my own family was like, you know, in a situation where
19 they didn't even have a place to, you know, to go to or
20 whatever.

21 And she just, my mom, she just told me that she
22 put my daughter at the orphanage. And it was a shock for
23 me. You know, I didn't, like I was completely shocked.
24 And I mentioned to Mr. Valerio about it briefly during the
25 first, you know, when I first stayed with him briefly I

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1 mentioned it. But I decided like to continue to develop
2 the relationship with him. And he sent me back to Ukraine
3 in August with the intention to come back to him again and
4 to continue to build the relationship, it was the purpose
5 of my visit.

6 Q. I'm going to stop you right there.

7 While you were with Mr. Valerio for those
8 approximate couple of weeks in July --

9 A. Yes, sir.

10 Q. -- of 2011, did you have a romantic relationship with
11 him?

12 A. Yes. Yes, of course.

13 Q. Did you have a sexual relationship with him?

14 A. Yes, I had. Yes.

15 Q. At any point in time during that first visit in July
16 of 2011, did Mr. Valerio physically abuse you in any way?

17 A. During my first trip, I couldn't say so, no.

18 Like I noticed that he had, you know, like he
19 had this issue that, like his mood would change. He would
20 be a normal person, normal person like a few days, and
21 just in the middle of sudden, his temper would change,
22 like click. I couldn't explain why. But that was the
23 only issue that I noticed during my first stay.

24 Q. What did you observe about his mood swings? What do
25 you mean by his temper would change?

1 A. He would become angry with no reason. Like angry
2 with no reason, which I couldn't understand why. But I
3 thought that, you know, I thought that maybe because he
4 has like he's Italian, I thought maybe it was like a hot
5 blooded or something like that. So it was my first
6 impression.

7 Q. Did that, other than anger -- withdrawn.

8 How would that anger play out? What would he
9 do, specifically?

10 And I'm talking only about that first time, in
11 July of 2011, when you were with him.

12 A. He would becomes like jealous with no reason. He
13 would become suspicious. Like this is something that I
14 would have noticed that at the first. But the first time,
15 I spent like ten days with him. That was the only time
16 that I spent.

17 But still we got committed that to continue the
18 relationship. And he sent me back to the Ukraine
19 specifically like I didn't have absolutely like no, no,
20 you know, funds of my own at all. He purchased the ticket
21 for me and he would support me and we would communicate.

22 When I was in the Ukraine, we would constantly
23 communicate. He would ask me how am I doing. Like it was
24 a relationship. It was a relationship which continued.

25 And he would send money to me also, like in

1 August, and he would tell me that I'm expecting you to
2 come. Like I'm waiting and waiting for you to come like
3 in September. And we were just building a relationship at
4 that point.

5 Q. And to be clear. Your daughter was not with you in
6 the United States that summer. Correct?

7 A. No. My daughter never was in the United States. And
8 at that time she was specifically at the orphanage. Yes.

9 Q. While you were traveling here, looking for a husband?

10 A. I didn't put her in the orphanage. My mother did,
11 without my knowing, while I was already over there because
12 she was afraid.

13 Like the place, we don't have our own place in
14 Ukraine. We were always renting. Like I don't have a
15 house like. And I have a history of basically being a
16 homeless person since 2008. But that's another story, but
17 I'm just telling you.

18 Q. Did you tell Mr. Valerio that you had a daughter?

19 A. Yes, I told him. Yes.

20 Q. Did Mr. Valerio indicate to you one way or the other
21 whether he want to adopt the child? And I'm talking about
22 July of 2011.

23 A. No, he didn't tell me immediately that he want to
24 adopt. No, he didn't tell me immediately.

25 Q. So you had returned to the Ukraine after Mr. Valerio

1 paid for your trip. Did you later return to the United
2 States that year?

3 A. Yes, I did. Yes.

4 Q. And when was that?

5 A. I remember it was September 2.

6 Q. September 2 of 2011? And what made you return?

7 A. We were still in the process of building the
8 relationship and that was like it was up to him to pick up
9 the date. Like he was, you know, had some issues and he
10 told me that I'm expecting you to come specifically on
11 this date. And I arrived, I arrived September 2.

12 But I also remember that in August I was staying
13 here. But my child, she wasn't here. She was in
14 Stroganovka Crimea in the orphanage. And I remember that
15 I couldn't even go. I couldn't even go visit her. Like I
16 couldn't even get her back by my own because, you know, I
17 couldn't, I didn't have funds in order for me to get her
18 back.

19 I had to, according to the requirement of our
20 government, I had to secure another residence for her,
21 which I couldn't do. I didn't even have enough money even
22 to see her, you know, at the time when I was in Kiev. And
23 I didn't even have a place to live in Kiev also. I was
24 just staying with my friends, basically.

25 Q. So you returned to the United States. What was your

1 primary purpose for returning to the United States?

2 A. Basically, I returned to continue it. I was
3 determined to build serious relationship with this man
4 specifically for the marriage. That's all that I was
5 looking for.

6 Q. Now, upon your return in September of 2011, did your
7 relationship with Mr. Valerio change? Remain the same?
8 Can you please describe your relationship when you
9 returned in September.

10 A. Yes. I returned in -- Mr. Valerio, I think that he
11 has, you know, like a dual personality. So he would be
12 normal and, you know, a caring person and a good person at
13 one point. But at the other point, he would just,
14 something happen and he would completely change into
15 opposite person.

16 Q. Are you looking at something?

17 A. No. I just have some notes for myself which I made.

18 Q. Okay. Can we just mark that for the sake of our
19 record here?

20 THE COURT: Yes. Let's mark that as Court
21 Exhibit 1, her notes.

22 MR. KABRAWALA: May I just have a very brief
23 moment to look at it? I have never seen it.

24 THE COURT: Sure.

25 MR. KABRAWALA: May I approach, your Honor?

1 THE COURT: Yes. And Mr. Lato may look at it as
2 well.

3 (There was a pause in the proceedings.)

4 THE COURT: Miss Kalichenko, if you need to
5 refresh your memory about something, including any notes
6 that you have, you just need to let the record and me know
7 that you are referring to your notes.

8 So you should testify from your memory. If you
9 can't remember something and need to refer to notes, say:
10 Judge, I need to refer to my notes.

11 THE WITNESS: Okay. So far I have read nothing
12 yet.

13 THE COURT: Fine.

14 MR. KABRAWALA: That appears to be the case.

15 BY MR. KABRAWALA:

16 Q. So let's talk about your visit in September. During
17 that time did -- I'm sorry. Withdrawn.

18 Approximately how long did you stay following
19 your visit in September? During the visit how long were
20 you in the United States for?

21 A. I stayed, during that trip to the United States I
22 stayed since September 2 and till the very, very end of
23 October. But not all of this time I stayed at
24 Mr. Valerio's house. Only some period of time I stayed at
25 his house.

1 Q. About how long did you stay at Mr. Valerio's house?

2 A. Starting from September 2, like around three weeks, I
3 believe. Close to three weeks. Close. Approximately
4 three weeks. 20 days. Three weeks.

5 Q. After that approximate three-week period of time, did
6 you return to Mr. Valerio's house?

7 A. Yes, I do.

8 Q. During the same trip?

9 A. To the US, yes. To the US? Yes. I was still in the
10 country. I didn't leave the country.

11 Q. Okay. Where did you go after three weeks,
12 approximately? I just want to get the time frame that we
13 are dealing with.

14 A. Okay. I had to, I had to go to Seattle because he
15 kicked me out from his house, basically. And that is the
16 instance that I wanted to talk about.

17 Q. Let's talk about that. During the time when you
18 visited Mr. Valerio in September of 2011, did Mr. Valerio
19 ever sexually or physically, or both, assault you in any
20 way?

21 A. Yes, he did.

22 Q. Can you describe -- well, how many --

23 A. I mentioned two.

24 Q. So there were two instances?

25 A. I mentioned two. Yes.

1 Q. When you say -- okay. Withdrawn. Tell us about the
2 first instance.

3 A. It happened as I was staying at Mr. Valerio's house
4 and, you know, he suddenly like became mad. I don't even
5 know, like out of no reason. And he just told me, he just
6 told me that he wanted me to leave his house.

7 You know, like he just, he literally told me
8 that I have to leave. Like, I have to leave? He just
9 told me that I have to leave his house and that's it.

10 Like it wasn't his concern where or why, you
11 know, because I didn't know no people in the US. I had
12 absolutely no funds. I couldn't go back to my country. I
13 couldn't even purchase a ticket back to my country. I
14 didn't even have a place to go. He just, you know, he
15 just like just put the condition to leave the house.

16 Q. Around when was this?

17 A. Approximately three weeks after my second arrival.

18 Q. So sometime in September of 2011.

19 A. Yes. 20-something.

20 Q. What happened? Where were you? What time of day was
21 this? And tell us what happened.

22 A. Okay. I think it was close to, it was during the
23 day. It was during the day. I remember he was expecting
24 me to leave his house like immediately. But I didn't
25 know, you know, where to go.

1 And I just simply, I remember that he was in his
2 kitchen, okay? And I remember that I came downstairs to
3 the kitchen. I literally, I remember how I was dressed.
4 I remember that I had a bathrobe on top of myself. The
5 black one. And I remember how he was dressed. He had
6 also like he was casually dressed. And he had, you know,
7 also like a bathrobe, the one he was wearing at his home,
8 and like a casual pants or shorts. Something like that.
9 Very casual. Very casual. Okay?

10 And so he was in the kitchen and I just started
11 to, you know, I approached and I didn't know what to do.
12 I just asked him, I started to beg him if I could stay at
13 least, you know, one or two more days in his house until I
14 find out, you know, the place where I can go. But he
15 didn't want it. He just wanted me to leave. You know, he
16 just wanted me to leave.

17 And I literally started to beg him, you know?
18 And what he did is, he just, you know, he, like he pulled
19 me out, I remember, from the kitchen towards the cinema.
20 He has this control.

21 Q. Cinema?

22 A. Yes.

23 Q. Like a theater?

24 A. Yes, like a theater room.

25 Q. What happened next?

1 A. Yes. So he pulled me out to the room, like a cinema
2 room. And, you know, he just took my clothes off and he
3 forced me, me told me to crawl on the floor, okay? He
4 told me to crawl on the floor.

5 And he would start calling me different, you
6 know, like insulting names. I can't repeat how he would
7 call me but this is like not a proper language.

8 Q. You can. I'm asking you to testify truthfully and
9 completely, so the language that was used, I want you
10 to -- I'm asking you to repeat it even if it is not
11 appropriate language.

12 A. Okay. So he would call me like, you know, like he
13 would say a dirty whore, a bitch, and, you know, he would
14 use language like this. And sentences like this. And he
15 would, he would, you know, he would just constantly insult
16 me, humiliate me, would start calling me like this.

17 And he wanted me to reply in the same way, so I
18 had to tell, agree with him and I had to reply to him
19 like: Yes, my master. That's what he, you know, always
20 wanted to hear from me as a response. Okay.

21 And after that, so he asked me to crawl on the
22 floor. And I would. I had like no clothes on myself.
23 Okay? And he would use his hand like, I don't know how to
24 say in English when you do like this. Slap, is it? You
25 know, he would slap me, I think, if it's the proper word

1 to say.

2 THE COURT: Let the record indicate the witness
3 made a slapping motion with her left hand.

4 Go ahead.

5 THE WITNESS: And then he would, you know, he
6 would use his hand. And he would just, you know, he would
7 just go like inside of me with his hand. And he would
8 like continuously do it, which was painful for me.

9 Q. I'm sorry. Let me stop you right there.

10 Slapping. Where did Mr. Valerio slap you?

11 A. On my body. Like, you know, like this.

12 Q. Pointing to your rear end? You are pointing to your
13 rear end?

14 A. Like this.

15 (Conferring with interpreter.)

16 THE INTERPRETER: My behind.

17 BY MR. KABRAWALA:

18 Q. And approximately how many times?

19 A. He would constantly do it. He would, like he would
20 do it. And he would insult me, use this language. And he
21 would ask me to crawl on the floor. And he would just,
22 you know, use his hand and just insert, you know, inside
23 of me. And he would literally hurt me. I ask him to stop
24 it but he just did it. Like he didn't care.

25 Q. Was his hand motion?

1 A. Yes. His hands were always in motion.

2 Q. Okay. And was it forceful? Gentle? Something else?

3 A. It was forceful. And I remember that it hurt me. I

4 remember that he hurt me like really, really badly.

5 Really badly. And I had to crawl, you know, on the floor

6 doing all of that. And he would constantly like humiliate

7 me.

8 Q. Did he have anything in his hand or was he using his

9 hand?

10 A. I think he had. I think he had, yes.

11 Q. What do you think he had?

12 A. Just it is from, you know, is my recollection. If he

13 had, he had like a stick.

14 Q. A stick? Did he use his hand in a closed hand, like

15 a closed fist, or an open hand?

16 A. I think he did both.

17 Q. Okay. And you said that he put his hand inside you.

18 Was it in your --

19 A. Yes.

20 Q. -- mouth? Vagina?

21 A. In the vagina. He would put it in the vagina. But

22 he would also try, you know, to put it in the other area

23 as well.

24 Q. In your anus?

25 A. Yes.

1 Q. Was his hand closed? Open? Can you please describe
2 the -- I know it's uncomfortable, but I'm trying to get
3 the details for the record.

4 A. He would move his hand. It would be like open and
5 closed. He would move his hand.

6 Q. Now, did he do anything other than what you have
7 described?

8 A. Yes. He would like, you know, he would, at that time
9 I had long hair, the black long hair at that time I had,
10 and he would pull me like, you know, with the hair also.

11 And also I remember he would ask me to -- I'm
12 going to ask the interpreter how to say it.

13 Q. Please take your time.

14 (Witness and interpreter confer.)

15 THE INTERPRETER: It's very hard to tell me
16 that, but he would ask me to use the like oral sex.

17 A. Like, you know, with my mouth to specifically perform
18 on his, how do you, you know, the male organ. How do you
19 call it?

20 Q. Penis. Did you perform oral sex on his penis?

21 A. I told him that it is disgusting and I told him that
22 I don't want to do it, you know. But he would, he would,
23 he would force me to do it. Specifically, like he would
24 pull me, you know, through my hair. That's what he would
25 do. I told him that.

1 And I know that for me it is disgusting. Okay?

2 For me, it's disgusting. And I told him it was disgusting
3 for me.

4 Q. Just so the record is clear. Did you perform oral
5 sex on him? And I will ask you follow-up about whether
6 you wanted to or not. But did you? Yes or no?

7 A. Yes, I did.

8 Q. Now, did you want to perform oral sex on him?

9 A. No.

10 Q. Did you resist, or tell him no?

11 A. I told no. Yes.

12 Q. Did you resist, or tell him no, that you did not want
13 to be slapped?

14 A. Yes, I told no, because I didn't want to be slapped.
15 I told him that I don't want to crawl on the floor. Of
16 course I did.

17 Q. Did you resist or tell him no, that you don't want
18 any of part of his body inside your body?

19 A. Yes. I told him. I couldn't fight him, you know,
20 but I told him no. Yes, of course I did.

21 Q. Were you subdued in any physical way such as a
22 restraint?

23 A. What is it?

24 Q. Were your hands tied? Were you pinned down? How
25 were you restrained, if at all?

(Witness and interpreter confer.)

2 A. Yes. I remember he would hold my hands like this, on
3 the back.

4 THE COURT: The witness is indicating with her
5 hands behind her back.

6 A. Yes. Like this, I remember.

7 | BY MR. KABRAWALA:

8 Q. Were they tied in any manner or restrained in any
9 way?

10 A. He would just hold. He didn't use anything specific.
11 He would just hold with using his own, you know, using his
12 own hand.

13 Q. Was he standing above you, to the side of you, on the
14 floor? Describe how he, where he was in relation to you
15 during this occasion.

16 A. I remember that I was on the floor. Okay? And he
17 would be like, not a position, like not laying down, but
18 in a position like crawling; you know, when you are about
19 to crawl?

20 And the hands would be like this. And he would
21 hold them like this. And he would be, like he would be
22 like almost on top, like sitting on my, you know, on my
23 back.

24 MR. KABRAWALA: The witness gestured, for the
25 record, behind her back, when she was describing that.

1 THE COURT: Yes.

2 BY MR. KABRAWALA:

3 Q. Approximately how long did this encounter last?

4 A. It wasn't a short encounter. I would say it would be
5 between one hour and two hours. Something like that.
6 Between. Because it only stopped after, you know, like I
7 was suffering.

8 But for him it didn't really matter. It stopped
9 after he received his satisfaction. So basically until he
10 received whatever he was looking for. Then, only after
11 that, like after he was like completely discharged. You
12 know.

13 Q. Discharged?

14 A. Yes. Like completely discharged. After he discharge
15 himself. Like even after he had like even no energy left.

16 Q. You mean ejaculated or --

17 A. Yes.

18 Q. Okay. At any point during that encounter, did you
19 have sexual intercourse with Mr. Valerio?

20 A. Yes. He would try, he would do it. He would do it.
21 If that's what you mean, yes, he would do it.

22 Q. Just so we are talking about the same thing. Did he
23 insert his penis in you?

24 A. Yes, he did. Umm-hmm.

25 Q. And again, did you say no or resist in any way?

1 A. I told him no. I couldn't otherwise resist but I
2 told him no way.

3 Q. Did you have the opportunity to -- withdrawn. After
4 this was over, what happened?

5 A. After this was over, I remember that I just, I cried.
6 I was crying. And I just went upstairs to the room where
7 I was staying.

8 And then I just stayed, you know, I just stayed
9 till I left. I didn't even talk to him much. I only told
10 him that I'm ready to leave this day and then he drove me
11 to the airport.

12 Q. Did you observe any marks on your body of any kind?

13 A. I felt pain inside. It was painful for me to walk,
14 you know. And I think that it was definitely painful for
15 me to walk.

16 Q. To walk?

17 A. To walk. Like this.

18 Q. Oh. To walk?

19 A. To walk. And I remember that I was bleeding as well
20 inside.

21 Q. You were bleeding inside your vagina?

22 A. I had, yes, I have had blood. Yes.

23 Q. Did you observe any red marks anywhere on your body?

24 A. That I cannot say for sure. That I cannot say.

25 Q. Just to be clear. Were you menstruating during this

1 time period?

2 A. No.

3 Q. So you, at some point after that, you told him you
4 were leaving. Correct?

5 A. It is not that I wanted. You know, it is just I had
6 no other choice.

7 I had to go somewhere because I didn't, like I
8 couldn't, he didn't want me to stay in his house, and I
9 couldn't obviously be on the street. So I just contacted
10 a person, who I didn't even know. He was like a very, you
11 know, cold contact. Just a person who I just barely knew
12 in Seattle. He invited me to come and stay with his
13 family. I would stay with his family.

14 Q. Was this another romantic --

15 A. It wasn't romantic. It was more of a, you know, kind
16 of a friend connection. Because I was staying with his
17 barracks, they all stay over there.

18 Q. The person that took you in in Seattle, did you meet
19 that person on any kind of dating website?

20 A. Yes. But -- yes. But it was like a very, you know,
21 contact -- I even contacted him two days like prior to my
22 arrival to him just because I had no other choice. I
23 didn't want to go over there to be with a stranger. I
24 didn't want to but I had no other choice.

25 Q. Did you, at any point in time following this first

1 instance, report Mr. Valerio to any sort of legal
2 authorities?

3 A. I was considering. I was considering. Specifically
4 after that incident, when I was in Seattle I was
5 considering to maybe contact the police. I was
6 considering.

7 Q. Why didn't you?

8 A. I was hesitant because, first of all, this is a
9 foreign country to me. Like this is not my country. I
10 never dealt with no American police or whatever and I
11 didn't know what their reaction would be.

12 And also, like my, you know, my primary concern
13 at that point was about my family and the reunion with my
14 family because like, for instance from Mr. Valerio's
15 house, I remember that I called to the orphanage, like
16 every other day I would call back home, I would call back
17 home, and I would check on my daughter, how she's doing,
18 how she's doing.

19 And they, you know, like this principal of the
20 orphanage in the Ukraine, they wouldn't, they would even
21 refuse to tell me how she was. They were very rude. They
22 told me they have so many kids, we don't know how your
23 daughter is. They just didn't want to even talk to me.

24 But I was -- so my priority was to reunite with
25 my family, to get my daughter out of the orphanage to make

1 sure that she is okay. That was my priority. And he was
2 like, you know, regarding the kids.

3 And I want you to know, because it's important,
4 regarding the kids he was, and my daughter specifically,
5 he was very receptive. Like he really wanted her to be
6 part of the family. Okay?

7 And he told me, like he told me about his
8 previous relationship with this woman I believe from South
9 Africa. Angelique I believe her name is. And he told me
10 that he has a daughter with her. Her name is Alexa, his
11 daughter with this woman. And I remember that he was
12 showing me this picture of his daughter when she was
13 staying with him like at his house. He would show me the
14 pictures of his daughter. And he would tell me that he
15 was like very happy.

16 And I could see that he was very sincere, that
17 he had love for the child. And I could see that he was,
18 you know, really missed the child, you know. And he would
19 also like tell me that he would complain that the daughter
20 wasn't with him; that this woman took her away from him.

21 And so I could see that basically, you know,
22 that he would be -- and he would also encourage me to
23 bring my own daughter to live with him. So I saw that he
24 would be, you know, a suitable, a very good person as a
25 father.

1 Q. So you didn't call the police because you still held
2 out hope that --

3 A. Yes, I hold out hope.

4 Q. May I finish the question so the record is clear.

5 You didn't call the police on Mr. Valerio
6 following this incident of September 2011 because you,
7 essentially you still held out hope that Mr. Valerio would
8 be a good father to your child?

9 A. Exactly. Exactly. I saw him as a father to his own
10 son and I saw his sincere concern to his daughter with
11 this woman Angelique.

12 And he also told me this woman, she had a son,
13 which wasn't his son, from the previous relationship of
14 her. But he would tell me that he would, like he would
15 see no difference, you know, between a boy and between his
16 own daughter and he would accept the son as his own one.

17 Q. Okay.

18 A. He would also tell me about this.

19 Q. I want to talk about your second trip to
20 Mr. Valerio's house.

21 A. Okay.

22 Q. That trip in that time, in the fall of 2011. What
23 made you come back after Seattle?

24 A. First of all, I realized that there was no place for
25 me in Seattle. And there never was. Like simply, like I

1 was simply, like there never was.

2 And Mr. Valerio, after this incident he
3 contacted me through the email. He contacted me and he
4 was completely in a different tone. Completely like
5 nothing happened, you know. He contacted me. And he
6 would ask me how am I doing, if I'm all right. And he
7 would, you know, the purpose of reestablish the
8 relationship, you know, in a softer way, a nice way, a
9 gentle way, and he would advise me to come back to him.

10 And I decided to give it a chance because I was,
11 in my mind I was like, in my mind I was after being in a
12 family, and I decided to give him a chance of building the
13 family with him.

14 Q. So you came back to him, hoping to build a family
15 with him. He paid for your flight. Correct?

16 A. Yes, he did.

17 Q. This second time when you stayed with Mr. Valerio,
18 how long was that visit?

19 A. The second time I came back, it was, I think it was
20 second week of October, and stayed till the end of
21 October.

22 Q. During that second visit in the fall of 2011, did
23 Mr. Valerio ever sexually or physically assault you in any
24 way?

25 A. I remember that, you know, when he was about to pick

1 me up from the airport so he -- I was communicate -- he
2 bought me a cell phone before. So I had a cell phone with
3 an American sim card. So I still, like it was activated.

4 So I was communicating with him through the cell
5 phone at that time. And he would ask me that he wanted me
6 to come. Like I came from the airport. I flew. And then
7 he would tell me from the airport to take a taxi and to go
8 to the Central Park, Manhattan, and there he was going to
9 pick me up in Central Park. Not in the airport but in
10 Central Park.

11 And he was specifically, I remember, telling me
12 in the task of how he would like me to be dressed. Okay.

13 Q. How was that?

14 A. Yes. He would tell me that he wanted me specifically
15 to have like a mini dress or a mini skirt to put on. And
16 he would tell me to wear the panty hose. Right, in
17 English? Panty hose. And he would tell me not to put,
18 like no underwear. That was his --

19 Q. And you did it.

20 A. I did it. But I didn't understand why he asked me,
21 but I just did it.

22 Q. So -- withdrawn. Around what time was this that you
23 arrived into New York City?

24 Was it late? Was it during the day?

25 A. No. I arrived during the day. And it took me a

1 while to drive from the airport to Manhattan also. But
2 Mr. Valerio I met around from, it was between 4 to 5 pm in
3 Central Park.

4 Q. Okay. What happened once you met him?

5 A. He picked me up. I was waiting there, waiting in a
6 taxi. I was waiting in a taxi in the Central Park. And
7 he arrived. He arrived in his car. I remember the Range
8 Recover, the one that he has, the black one. Okay? So he
9 picked me up in that car. He paid for the fee that I was
10 supposed to pay to drive me to the airport.

11 Q. The taxi fare.

12 A. Yes, the taxi fare. And I came. Whatever small
13 luggage I had, I put in his car and I came into his car.

14 And he was like he was very happy to see me. He
15 was, you know, he asked me how was I doing. He was in the
16 car. He was like talking nice to me, like very happy that
17 I came, you know.

18 And then we started to drive from the Central
19 Park all the way back to his house to Long Island. Okay?
20 And so I remember we were driving. And like everything
21 was okay during the initial ride through the town. But we
22 were like already in the Long Island. I don't remember
23 where it was because I'm not very familiar with the area.
24 Like I can describe how it looks but I cannot tell where
25 the specific location.

1 Q. Okay. Go ahead. Describe, in as much detail as you
2 can, where you were and what happened.

3 A. So I remember it was already a long drive. And the
4 road from Manhattan to Long Island takes like a couple of
5 hours to drive. So I remember that we are in Long Island
6 already, so it was already dark. It was already dark. It
7 wasn't night but it was like, I don't know, like 8, 9 pm.
8 Something like that. It wasn't like very dark but it was
9 like a twilight, a twilight.

10 So he just, he suddenly stopped the car and he
11 pulled over. He pulled over from the road. Just pulled
12 over to the side. And he just pulled over.

13 And he, you know, he was sitting with the
14 driver's area place and I was sitting next to him. And he
15 would just, he would just, you know, use his hand and just
16 like, so he just, like an animal, like attacked me, you
17 know, like using his hands.

18 Q. What do you mean?

19 A. Using his hand, he would put it like under my
20 clothes. He wouldn't take the panty hose off. He would
21 just, you know, go inside of it with his hands, through
22 the clothes, you know.

23 And it was very painful because like, I don't
24 know, a woman will probably understand, like with your
25 hand through the clothes. He didn't take it off. And he

1 just started, you know, to use his hand like inside of me
2 and he was just -- and I just, like I was shocked. I was
3 shocked. You know, I didn't understand why he did it or,
4 like, just absolutely like no explanation. No, just, you
5 know, he did it. And he kept doing it till he, you know,
6 till he relieved himself.

7 Q. So to get this straight. He was driving and he
8 pulled over on some road. You don't know exactly where
9 that was.

10 A. On the Long Island. I remember that there was like,
11 for instance, like a road you drive and he would pull over
12 to the side where there was like no cars.

13 Q. Okay. So you were on the road somewhere in Long
14 Island. And in the moments before, did you have any
15 warning that he was going to do this to you?

16 A. No. We was just listening to the music. We was just
17 listening to the music.

18 Q. And it is your testimony that he pulled over and took
19 his hand and put it up your vagina?

20 A. Yes.

21 Q. While you were still wearing panty hose?

22 A. Yes.

23 Q. And it was painful?

24 A. It was very painful. Because it was not only the,
25 you know, the pain of the hand, it was also the clothes,

1 you know, when it is, like how do you say it?

2 (Witness and interpreter confer.)

3 THE INTERPRETER: When it's rubbing against.

4 A. Yes, when it's like rubbing the skin it was also
5 painful, you know.

6 BY MR. KABRAWALA:

7 Q. Did your clothing tear in any way? Your panties.

8 A. Yes. He completely, like he made like a hole, you
9 know, over there. And I think it was, for him it was
10 giving him some kind of a drive, you know, when a woman
11 like no, no underwear but the panty hose and mini skirt;
12 that, you know, it was really like driving him crazy, you
13 know.

14 Q. Were you resisting in any way?

15 A. I was shocked. I didn't. I wasn't like out of the
16 car. Like it was locked completely. It was his car. The
17 car was locked. I couldn't go nowhere.

18 Q. Why --

19 A. Like I couldn't --

20 Q. Didn't you -- I'm sorry. Go ahead.

21 A. I couldn't go. I couldn't open the car. There were
22 no people around. It was just in the middle of nowhere.
23 And it was dark. I didn't even know the area.

24 Q. Was he saying anything to you at this time?

25 A. You know? He was, after he finished like doing what

1 he was doing, like, you know, satisfying himself and after
2 his discharge, like he felt this relief and he turned to
3 me and said that he was sorry. He turned to me and said
4 that he was sorry.

5 Q. How --

6 A. He turned to me and said that he was sorry.

7 But I remember that he, you know, like when I
8 was trying to get myself out of here, I remember that I
9 hurt my head in the car, in the car, you know, trying to
10 turn around away from him.

11 Q. So while Mr. Valerio was penetrating you with his
12 hand, you turned to move away and you hit your head?

13 A. Yes. With the car.

14 Q. Did he say anything to you while he was physically
15 assaulting you?

16 A. No. He was just, and I remember he also tried to
17 kiss me, you know, like kiss and simultaneously to use his
18 hand.

19 Q. You did gesture. It sounds like you were testifying
20 that Mr. Valerio was masturbating while he was doing this
21 to you.

22 A. Yes, he was.

23 Q. Did you -- withdrawn.

24 A. He told me he was sorry after he finished, you know,
25 after he said. That was like, you know, after he, like

1 something wild came out of him, you know. And then he
2 turned and then he did like this even. Maybe he even felt
3 sorry, I don't know, but --

4 Q. You're slumping.

5 A. That was his gesture trying to show. Maybe he even
6 felt sorry, I don't know, but he said, he told me that he
7 was sorry.

8 Q. Did you call the police or notify any sort of
9 authorities about the interaction?

10 A. No. I didn't call to nobody. Because I just, I
11 didn't. No. I didn't call. I didn't call. I thought --
12 I couldn't understand why he was doing this. He wasn't
13 like this all the time. He was just, you know, it was
14 like some kind of madness, you know, coming on him.

15 And I was, I wanted desperately to reunite with
16 my daughter. And he would encourage me. Like he would
17 encourage me constantly to get her out and to bring her,
18 you know, as a family, to live together with him.

19 Q. So despite this second event, you wanted to give him
20 another chance because you saw him as a good father
21 figure.

22 A. Yes. And also I was thinking that he lived in the
23 marriage with this Russian lady, his wife. Natalia, I
24 believe. He lived for over ten years, since '11 or '12,
25 something like that, from what he told me, his first

1 marriage.

2 And it was, from my point of view it was kind of
3 successful, his marriage with his wife. And he had a kid.
4 And I saw the kid. I saw his mother. And I thought that
5 maybe he is, you know, maybe he is a normal person. Maybe
6 he is a good person; like, if she lived with him for more
7 than 10 years, this Russian lady, his first wife. So I
8 guess, you know, that's how I saw it.

9 And also his attitude with his other kids, like
10 Alexa. I believed him he was concerned about her. Like
11 he truly loved her, his daughter. And even the kid. I
12 think that the other one that she had, the boy, I forgot
13 his name, he was sincerely concerned about them like I
14 could see from him.

15 Q. I want to show you a few documents.

16 May I approach the witness?

17 THE COURT: Yes.

18 BY MR. KABRAWALA:

19 Q. I will have you turn to some exhibits here. The
20 first exhibit I'm showing you is Exhibit No. 9.

21 Do you recognize this document, Exhibit 9? It
22 is a one-page. Looks like some sort of contract.

23 A. Yes, I do.

24 Q. Is that your signature?

25 A. Yes.

1 Q. Is this a true and correct copy of the document that
2 you signed?

3 A. Yes, it is.

4 MR. KABRAWALA: Your Honor, the government moves
5 into evidence Government Exhibit 9.

6 THE COURT: Any objection?

7 MR. LATO: No, your Honor.

8 THE COURT: Government Exhibit 9 admitted.

9 (Government Exhibit 9 in evidence.)

10 BY MR. KABRAWALA:

11 Q. Can you describe what that document is.

12 A. It is a contract that he came out with and he asked
13 me to sign.

14 Q. And I see that it is dated, the email on which it is
15 printed, a date from October 18, 2011. This is at the end
16 of your stay approximately.

17 A. Close to the end.

18 Q. Close to the end of your stay with him. Correct?

19 A. Yes.

20 Q. Is it fair to say that this is some sort of,
21 quote-unquote, contract where you are promising to
22 quote -- withdraw that.

23 Is it true that this is some sort of contract
24 where you are entering into a, quote, multiple partner
25 relationship, close quote, with Mr. Valerio?

1 A. That's what he, this is what he wrote, yes, contract.

2 Q. I want to focus your attention to the last few
3 sentences. And I'm going to read it. Just tell me if I'm
4 reading it correctly and then I will ask you a couple of
5 follow-up questions about it.

6 So it is the fifth line from the bottom. It
7 reads in boldface print:

8 "I," meaning you, "always obey his commands and
9 provide the support for our strong partnership.

10 "Joseph," meaning Mr. Valerio, "promises to be a
11 good man and a gentle man with his partner when not
12 engaging in consensual rough sexual intercourse which I,
13 Helena, meaning you, also enjoy. Therefore, in balanced
14 harmony, Joseph will treat me as an equal when I'm obeying
15 him thoroughly." Close quote.

16 Did I read that correctly?

17 A. Yes.

18 Q. To be clear. The instances that you described of
19 Mr. Valerio sexually assaulting you, did you consider that
20 to be consensual intercourse?

21 A. No, I don't.

22 Q. Why not?

23 A. First of all, during the first, you know, incident, I
24 was literally begging him to allow me to stay in his house
25 at least until I would be able to find a way to go

1 somewhere. I was literally begging him.

2 At the end, you know, at the end of the sexual
3 assault, he would tell me -- this is, I forgot to say
4 it -- he would tell me after, you know, he got his
5 satisfaction, he got discharged, he told me this is how
6 you earn your additional like two days.

7 This I clearly, I remember what he said. It was
8 kind of a, you know, how I earned, according to him, the
9 additional two days to stay in his place.

10 Q. So just to be clear. After the first time, in
11 September of 2011, when he had asked you to leave, you
12 told us about that assault that took place. And following
13 the assault, Mr. Valerio said, in effect, this is how you
14 had earned an additional two days?

15 A. Yes. I remember he said that.

16 Q. I notice here in this purported contract it says that
17 you will never mention the word police in his home because
18 he is my provider and my leader as well as my guard.

19 This language about police?

20 A. Yes.

21 Q. To your knowledge why is that in this purported
22 contract?

23 A. I never told him, you know, I never told him that I
24 would openly, that I was considering the contact, the
25 police or whatever. But I think that this is his

1 subconscious fear. I think that he was afraid. He was
2 afraid. And this is, and he wanted to, you know, secure
3 himself. He would think that I would make because I would
4 told him that this is, you know, like; but I never openly
5 told him I'm calling the police right now. That situation
6 never happened. But it was in his, you know, I think he
7 was scared that I might do it. That's why he did it.

8 Q. Other than the two instances that you described in
9 the fall of 2011, were there any other instances of sexual
10 assault, nonconsensual sexual assault, that Mr. Valerio
11 perpetrated on you?

12 A. I left. I left in October. Close to end of October.

13 Q. So the answer is no?

14 A. No.

15 Q. After you left, did you ever come back to Mr.
16 Valerio?

17 A. No.

18 (Continued on the following page.)

19

20

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22

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1 DIRECT EXAMINATION (Continuing)

2 BY MR. KABRAWALA:

3 Q I want to have you jump ahead to number 13.

4 Do you recognize this two page document?

5 A Yes.

6 Q Is this an e-mail that Mr. Valerio sent to your
7 e-mail address?

8 A Can I look at it?

9 Q Pardon?

10 A Can I read it?

11 Q Oh please, please, take your time.

12 That is an e-mail that you received from
13 Mr. Valerio, correct?

14 A Yes, this is.

15 Q Is it a true and correct copy of that e-mail?

16 A Yes, it is.

17 MR. KABRAWALA: Your Honor, the government moves
18 Government Exhibit 13 into evidence.

19 MR. LATO: No objection.

20 THE COURT: Government Exhibit 13 admitted.

21 (Government Exhibit 13 in evidence.)

22 BY MR. KABRAWALA:

23 Q I'm going to read a portion of the fourth paragraph
24 down from Mr. Valerio.

25 Quote: I wanted to ask if you would also help

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1 me with an adoption of a child from your country. Can you
2 help me just by saying we are a couple looking to adopt.
3 I will give you a sold commission for your help, that you
4 know.

5 Can you briefly describe what is being discussed
6 here.

7 A Yes. He asked me, he asked me at this point to help
8 him out to adopt a child from my country. Specifically
9 this is a request he want me to help him to adopt a child
10 from my country. And he, like he is understanding, okay.
11 This understanding he wanted us like me and him to pose as
12 a couple in front of the -- so is thought that he could do
13 it. He would take his chances of getting a child from my
14 country.

15 Q Please take a look at number 14, Government 14. And
16 this will be my last series questions.

17 I'll ask you again whether this is a true and
18 correct copy of the e-mail that got from Mr. Valerio?

19 For the record Government 14 is dated 2013/7/8.
20 So that is July 8, 2013.

21 A Yes.

22 MR. KABRAWALA: Your Honor, the government moves
23 Government Exhibit 14 into the record.

24 MR. LATO: No objection.

25 THE COURT: Government 14 is admitted.

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1 (Government Exhibit 14 in evidence.)

2 BY MR. KABRAWALA:

3 Q I'm going to read from the second paragraph on.

4 I want to be able to teach my new daughter all
5 the talents I have passed onto my son and daughter. There
6 will be an au-pair with me as well to tend to a little
7 girl's needs. I have a girl here now that's qualified.
8 If not her later on there will be some other qualified
9 helper or woman with me. The won't only be for me to
10 enjoy and raise. When I plan an action I think it
11 through. As far as going to meet with authorities in the
12 Ukraine, that's no problem as you will accompany me there
13 posing as my girlfriend.

14 Tell us what's going on in there?

15 A He was, there he was -- after first request to help
16 him with adoption I became concerned. I'm saying that
17 after his second request for an adoption, specifically to
18 help him to adopt a child from Ukraine, so I became
19 extremely concerned. Extremely concerned. And I
20 immediately like, I responded to him. But if you will go
21 look at my letter. There was a response.

22 And I was trying to find out what was his plan.
23 I wanted to know what was, what was he planning to do.
24 Okay. And he basically, he is telling me what his plan
25 is. Like he explains to me how his plan to take the girl,

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1 that um, that, this is what he says. He will teach her
2 this and this and this. And there will be an au-pair and
3 etcetera. And he told me that he was going to come. So
4 he is basically tell me what his intentions are.

5 Q Did you help him -- withdrawn.

6 Did you ever help Mr. Valerio adopt some other
7 child from the Ukraine per his e-mail request?

8 A No. I sent a letter to the consulate, American
9 consulate make sure he will never adopt anyone from my
10 country or from anywhere in the world.

11 Q Thank you. There is nothing further.

12 THE COURT: Okay, we'll take a ten minute break
13 before the cross.

14 (A recess was taken.)

15 (After recess the following occurred.)

16 CROSS-EXAMINATION

17 BY MR. LATO:

18 Q Good afternoon, Ms. Kalichenko.

19 A Good afternoon.

20 Q I'm going to ask you questions for about 15 minutes.

21 Most of my questions will call for a yes or no
22 answer. If you don't understand my question or can't
23 answer it yes or no, please tell me and I'll rephrase the
24 question. Okay?

25 A Yes.

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1 Q Do you understand me now?

2 A Yes.

3 Q Did you meet Mr. Valerio in July of 2011?

4 A Was the very --

5 Q I'm sorry. I can't hear you.

6 A Was the very end of June, like very end of June.

7 Q Did you meet him in the United States?

8 A Yes.

9 Q Was it in Long Island?

10 A Um, I came to New York. Which airport I don't --

11 Q When were you --

12 A In New York. It would have been, um I don't remember
13 which airport it was.

14 Q How long did you stay with Mr. Valerio?

15 A The first time?

16 Q Yes.

17 A The first time ten days.

18 Q Did you have sex with him during those ten days?

19 A Yes, I have.

20 Q Did he have a bad temper at any point within those
21 ten days?

22 A I know just that he would have changes in his mood,
23 yes.

24 Q And that is the first ten days you were with him you
25 already noticed that, right?

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1 A I notice that he has --

2 Q Yes or no?

3 A Yes, I know he has.

4 Q Did you thereafter go back to the Ukraine?

5 A Yes, I went back to the Ukraine.

6 Q In September of the same year did you come back and
7 spend time with Mr. Valerio?

8 A Yes, I came back.

9 Q Did you want to build your relationship with him?

10 A Yes.

11 Q Did you have sex with him?

12 A I had sex with him, yes, at that time.

13 Q In September of 2011 was your daughter about one year
14 old?

15 A September, yes.

16 Q Now the second time you were with Mr. Valerio in
17 September, did he show that he had a bad temper?

18 A I could say that he showed more of his character.

19 Q Well, were there times that he was good to you and
20 times that he was bad to you?

21 A Kind of, yes.

22 Q Some days he was good Joe and bad Joe, right?

23 A Yes. It was, yes, yes. I never said that there was
24 no good part.

25 Q Okay, please. I just want a yes-or-no question.

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1 Now is it a fair statement that Joe acted like
2 he had a dual personality?

3 A It's so --

4 Q Let me withdraw that.

5 When you testified about an hour ago, did you
6 say that Mr. Valerio had a dual personality?

7 A I said he has dual personality, yes. I said that he
8 had dual personality.

9 Q Now in September of 2011 did he assault you? Was he
10 forceful with you against your will?

11 A I just described, yes.

12 Q But I'm going to ask you a few more questions about
13 that.

14 Just so you know, now it's my turn to ask
15 questions. I know it's not familiar to you, but
16 Mr. Kabrawala asked you questions and now I have a chance
17 to ask you the same questions even though you may have
18 said it earlier. Okay?

19 A Okay.

20 Q Do you understand?

21 A Yes, I do.

22 Q Now, the first time Mr. Valerio assaulted you, right
23 before he did that he told you to leave his house,
24 correct?

25 A Yes, that is what he did.

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1 Q You begged him to stay, right?

2 A Yes.

3 Q And what he did was he ripped your clothes off,
4 right?

5 A First he dragged me from the kitchen to, it was a --.
6 And then that same room that's where he took my clothes
7 off.

8 Q And he made you crawl on the floor, right?

9 A Yes, he did.

10 Q And he slapped your behind, correct?

11 A Yes.

12 Q In fact he inserted his hand into your vagina, right?

13 A Yes.

14 Q He called you a whore, right?

15 A He would, he would use different insulting (sic) words
16 including this one.

17 Q Did it occur to you during this while he was doing
18 this, that maybe he wasn't the right guy for you?

19 A I don't think I was thinking about at this point. I
20 just um, are you talking about during the incident
21 specifically?

22 Q Yes. Right.

23 In other words, while he was assaulting you and
24 putting his hand inside you, did you come to the opinion
25 that maybe this is the wrong guy for me?

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1 A I didn't make exactly opinion.

2 Q Please just yes or no?

3 A I was just --

4 Q Please. Once again --

5 THE COURT: Ms. Kalichenko, if you could just
6 answer the question yes or no or just tell him you can't
7 answer it yes or no.

8 THE WITNESS: If I can answer yes or no, I just
9 have to tell him.

10 THE COURT: You can't tell him.

11 THE WITNESS: I can't answer this yes or no.

12 BY MR. LATO:

13 Q Did he want you to perform oral sex on him?

14 A Yes, he wanted.

15 Q You did not do that at first, correct?

16 A During that incident he forced me to do it.

17 Q But you refused, right, you didn't want to?

18 A I didn't want, no. I didn't want.

19 Q But once later you performed oral sex on your infant
20 daughter, correct?

21 A I won't answer that. I don't want to answer. I
22 refuse to answer.

23 Q You can't refuse to answer anything unless the judge
24 says so.

25 A You want me answer yes or no, and I can't say yes or

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1 no.

2 MR. LATO: Your Honor, given that she is a
3 defendant, I'm going to defer to the Court what she can
4 not do, and I withdraw my question what she can and can
5 not do.

6 THE COURT: You can't answer yes or no?

7 THE WITNESS: I don't want to answer yes or no
8 because it wouldn't be my answer to this question.

9 THE COURT: Okay. I think the government will
10 concede that fact in any event based upon the evidence in
11 the case. Right?

12 MR. KABRAWALA: Your Honor, the videos certainly
13 speak for themselves.

14 THE COURT: So you can stipulate to that.

15 BY MR. LATO:

16 Q Now Mr. Valerio assaulted you a second time in a car,
17 right?

18 A Yes, he did.

19 Q And that time when he assaulted you it was with your
20 pantyhose still on, correct?

21 A Yes.

22 Q And he actually put his hand through your pantyhose
23 into your vagina, correct?

24 A Yes.

25 Q And it hurt, right?

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1 A Yes.

2 Q Well at this point did you say, This is not the right
3 guy for me. I should get away from this guy?

4 A He apologized. He said he was sorry.

5 Q Well, it's not like he spilled coffee on you, right?

6 A It's not.

7 Q Right, okay. He actually shoved his hand into your
8 vagina and said to you he was sorry after masturbating,
9 and you were okay with that?

10 A I would prefer not to answer that question.

11 Q I'll move on.

12 Now when you were in the United States in June,
13 July or September of 2011, did you see any other American
14 men? I'm not asking you what happened, just whether you
15 saw them?

16 A (Inaudible).

17 Q You say September of 2011, did you see men other than
18 Mr. Valerio in the United States?

19 A The person who I has to go to, and that's it.

20 Q Well did you think maybe he was a better choice?

21 A I wasn't looking for him for this point of view at
22 all. I just had a place to go.

23 Q Now even after Mr. Valerio did these things to you,
24 in the -- room and in the car, was it still your hope that
25 he would be nicer to you in the future?

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1 A Yes, it was still my hope, yes. It was still my
2 hope.

3 Q Now on or about October 18 of 2011, did you and
4 Mr. Valerio enter into a contract that has previously been
5 introduced here as Government Exhibit 9?

6 A He drafted the contract, yeah. It was his
7 initiation. It came out of his mind, you know, this
8 contract, and I did sign it. It wasn't my initiative. I
9 just know he wanted me to sign it. It just came from his
10 mind.

11 Q On October 18th, 2011, did you send Mr. Valerio an
12 e-mail in which you agreed to enter into a contract with
13 him and agreed to have rough sex and do cooking with him,
14 your words?

15 A In October 18 I sent an e-mail. This is not what
16 happened.

17 Q Wait, hold on. I want to show you Defense Exhibit A
18 for identification.

19 Please tell me if you recognize it. And use the
20 interpreter if you have trouble reading it.

21 A Yes. So that was out of more my words. And the
22 other one was his words. This was my words here. He
23 wanted me to --

24 Q Is Defense Exhibit A for identification an e-mail you
25 sent to Mr. Valerio, yes or no? Did you send this to him?

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1 A I sent, I sent, but that is not how at the time. But
2 I sent.

3 MR. LATO: Your Honor, at this time I offer
4 Defense Exhibit A.

5 MR. KABRAWALA: No objection.

6 THE COURT: Defendant's Exhibit a admitted.

7 (Defense Exhibit A in evidence.)

8 BY MR. LATO:

9 Q Now is it fair to say that you wrote to Mr. Valerio
10 on October 18, 2011: I, Olena Kalichenko promise to
11 Joseph Valerio to enter into a multiple partner
12 relationship where I, as being one of his partners, agree
13 on having rough sex with him, do cooking from the
14 groceries, provided preferably in Ukrainian style, clean
15 the house, go out with him, travel together, be nice and
16 clean and affectionate things to him. Joseph Valerio
17 being a -- is to take care her and her child.

18 Did you write that to him?

19 A Yes, was that.

20 Q And this is on the same day that he sent you what you
21 signed, the contract, correct?

22 A I'm sorry, which same day? I don't understand.

23 Q On October 18th of 2011 you sent Mr. Valerio a signed
24 contract?

25 A No, this is not what this is.

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1 Q Please.

2 A But can I tell --

3 Q No, you can't.

4 THE COURT: Mr. Kabrawala can get up after he is
5 done and ask you to explain what happened.

6 THE WITNESS: But I just can not agree. This 24
7 is not what happened. I don't want to agree. This is not
8 what happened.

9 THE COURT: If you just say, no, that is not
10 what happened. Don't try to explain, just say, no, that
11 is not what happened.

12 THE WITNESS: This is not what happened the way
13 he --

14 THE COURT: Ms. Kalichenko, the question is just
15 whether or not that e-mail is the same day that you signed
16 the contract. That is the only question. Yes or no?

17 Was it the same day, or was it not the same day?

18 THE WITNESS: October is, yes, it was the same
19 day.

20 BY MR. LATO:

21 Q Now I'm going to show you Government Exhibit 9
22 previously introduced into evidence.

23 Is this the contract?

24 A This is the contract that he made, yes. That he
25 wanted me to sign.

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1 Q Did you sign it?

2 A That is my signature.

3 Q And you in this contract that you signed, agreed that
4 Joseph promises to be a good man and a gentleman with his
5 partner when not engaged in consensual rough sexual
6 intercourse, which I, Olena, also enjoy.

7 Did you put your name to that?

8 A He is talking about consensual, yes.

9 Q But you actually signed a document where it said you
10 enjoyed rough sex?

11 A No, that is not how this happened.

12 Q Now you returned, I should say in -- let me rephrase
13 it.

14 When you sent an e-mail on October 18 you were
15 already back in the Ukraine, correct?

16 A No. I was in his house. I was in his house.

17 Q When did you go back to the Ukraine?

18 A I have to check with my passport history, but it
19 would be very end of October. Not totally the day. I
20 have to check my passport. But I remember this contract
21 was -- I remember, because he printed it out and I signed
22 a copy. I remember signing the copy at his house.

23 Q By December of 2011 you were back in the Ukraine,
24 correct?

25 A December, yes.

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1 Q Now did you send Mr. Valerio an e-mail on December 23
2 of 2011 in which you told him that you want to move
3 forward with him and commit you, yourself and your child
4 tomorrow.

5 Did you tell him that in an e-mail?

6 A Yes. I told him this --

7 Q Okay, that's it. That is the question. You
8 answered.

9 Now at some point he started making videos of
10 you and your daughter engaging in sexual acts, correct?

11 A You mean I started to make?

12 Q Yes.

13 A I started to make of my own will? That is what
14 you're saying? I wanted to make something to me --

15 Q I understand what you're saying --

16 A That is what you're asking me questions --

17 Q Mr. Valerio asked you to make video of you and your
18 daughter?

19 A He was demanding, yes, of course.

20 Q And when he demanded them, were you in the Ukraine
21 when he made the demand?

22 A I was in Ukraine, yes.

23 Q Mr. Valerio was in the United States, correct?

24 A He was in the United States, yes.

25 Q About how many videos did you make of you and your

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150

1 daughter engaging in immoral acts, about 20 or 30?

2 A I told you -- different days, so, yes.

3 Q On April 29, 2012, did you send Mr. Valerio an e-mail
4 that you wanted the relationship with him to continue.

5 And I think [REDACTED], your infant daughter, will love you,
6 and that you, Mr. Valerio, could be a great father to her?

7 A When was April 29th you say?

8 Q Yes. And if you don't remember, I'll show you a
9 document maybe it will refresh your recollection.

10 Would you like me to show you the document?

11 A No, that's okay. That's okay.

12 Q Yes or no. I'm sorry, do you want me to show it to
13 you? Just say, no, and I'll stop walking forward.

14 A No, you don't have to.

15 Q Okay, so, did you send Mr. Valerio such an e-mail;
16 yes or no? Do you remember?

17 A I did, yes. But I had no visa --

18 Q Okay --

19 A -- my visa was being cancelled, so --

20 Q Okay. So now, did you feel that Mr. Valerio was
21 blackmailing you?

22 A Yes, I felt, yes.

23 Q And the reason you felt he was blackmailing you was
24 because he threatened not to continue to send you money if
25 you ceased making videos of you and your daughter,

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OFFICIAL COURT REPORTER

1 correct?

2 A That's not how he exactly was saying. I wouldn't say
3 that. I wouldn't say that.

4 Q Well, did you ever try to negotiate with Mr. Valerio?

5 You know what the word, negotiate, means? I
6 don't know if the translator -- well, could you please
7 translate that?

8 A I know what the word is.

9 Q I just wasn't sure.

10 Did you ever negotiate with Mr. Valerio?

11 A Negotiate what?

12 Q Well, on anything? I'll get to what if you say, yes.

13 A It's not, it's how you mean the word, okay? I will
14 say, yes, okay, I would say yes, uh-huh.

15 Q In fact in December of 2013, did you tell Mr. Valerio
16 that if he didn't give you, or continue to give you money,
17 you were going to report him to the police?

18 A No, I didn't say that. This I didn't say that, no,
19 didn't say that. I didn't say if you don't give me I'm
20 going to. That's not what I said. I never said that.

21 Q Well specifically, on December 30, 2013, did you
22 actually send Mr. Valerio what is called a viber message
23 in which you said, You know, you are really damned. You
24 could have negotiated with me before the criminal case
25 against you was being opened.

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1 Do you remember sending him that message?

2 A I remember the conversation and the content of the
3 conversation. I remember.

4 Q You actually sent that to him, right?

5 A I sent, yes. I remember the conversation.

6 Q Now on December 11 of 2013, you also sent him a viber
7 message in which you stated; Joseph, I now have eight
8 different video I made for you, not counting the one sent
9 through G H L. FBI is asking me every single day, either
10 I'm sending them additional evidence to them. I don't
11 think you really understand how serious a matter it is.
12 I'm asking you for the last time, would you like me to
13 provide the police everything I have, or would you like to
14 negotiate?

15 Did you send him that message?

16 A When did it happen, which date?

17 Q December 11th?

18 A And when did I leave the --

19 Q I'm not here to answer your questions. My question
20 to you is. Did you send him that message.

21 If you're not sure, I'll show you something that
22 might refresh your recollection.

23 A I remember the conversation, yes.

24 Q But you were attempting to negotiate with him, is it
25 a fair statement? You wanted him to send you more money,

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OFFICIAL COURT REPORTER

1 correct?

2 A I wouldn't say it this way. If you go further in
3 this conversation there are also statements which can also
4 be included --

5 Q Were you asking him to negotiate? You were looking
6 for something from him?

7 A I was. I was. And I told him openly that I would,
8 that I plan to file this case for damages because of my
9 daughter, the damages that he cost. And I told him the
10 same conversation, that I'm hiring a lawyer specifically
11 to file a civil lawsuit against him. This is included in
12 the conversation. I told him openly.

13 Q Did you want money from him; yes or no?

14 A I didn't --

15 Q Excuse me. Yes or no? Did you want money from him?

16 A From behalf of my daughter, yes, I believe she is
17 entitled to.

18 Q So what you were telling Mr. Valerio in these
19 messages, you wanted to negotiate, send money on behalf of
20 my daughter or I'm going to the FBI and turning you in.

21 That's what you were doing, right?

22 A First of all --

23 Q Yes or no, or I can't answer yes or no. Those are
24 the only choices.

25 A No. No.

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OFFICIAL COURT REPORTER

1 MR. LATO: Just a couple of more questions, your
2 Honor.

3 Q Do you remember being arrested by Special Agent Troyd
4 and Special Agent Messineo in this country at the airport?

5 A I do.

6 Q When they arrested you did you tell them, well let me
7 go back? Did you speak to them?

8 A Yes, I spoke to them, yes.

9 Q How long did you speak to them? Say a half hour?

10 A Maybe a little bit more at the office, close to an
11 hour.

12 Q At any time during your conversation with Special
13 Agent Troyd and Special Agent Messineo did you say to them
14 that Mr. Valerio had sexually or otherwise assaulted you
15 in 2011; yes or no? Did you tell them that?

16 A They never asked me.

17 Q Did you volunteer it?

18 A No, I didn't tell. I don't know. I would say I
19 don't remember, but I think, no. I don't remember. I
20 don't know if I told them. I don't remember, seriously,
21 if I told them. I remember I told some agent at one
22 point, but to them I don't remember, honestly.

23 MR. LATO: One moment, your Honor, I just want
24 to make sure.

25 (There was a pause in the proceedings.)

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1 BY MR. LATO:

2 Q Ms. Kalichenko, you realize you're facing a mandatory
3 minimum of 15 years imprisonment?

4 A I do.

5 Q You hope for leniency?

6 A Excuse me?

7 Q Are you hoping for leniency from the judge?

8 A What does that mean?

9 Q Are you hoping to get as little time as possible?

10 A No, I'm not.

11 Q You're hoping to get as much time in jail as
12 possible?

13 A What? I don't --

14 Q Maybe you don't understand me.

15 Are you trying to get the lowest sentence
16 possible?

17 A No, I'm not. It's just a request from the judge was
18 surprising from me. I didn't ask for him to ask me --

19 Q About an hour ago did you tell Mr. Kabrawala that you
20 were hoping for leniency?

21 A Excuse me?

22 Q About an hour ago when you testified, when
23 Mr. Kabrawala was asking you questions, did you say you
24 were hoping for leniency?

25 A He asked me if I had any agreement with them, if they

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1 promise me anything. And I said that they never promised
2 me.

3 Q Did he also ask you whether you were hoping for
4 leniency, and did you answer, yes?

5 Maybe you don't remember.

6 A I don't remember if he asked me for that.

7 MR. LATO: Nothing further.

8 THE COURT: Redirect?

9 MR. KABRAWALA: No, your Honor.

10 THE COURT: Step down, Ms. Kalichenko.

11 Did you discuss a potential date to continue the
12 hearing?

13 MR. KABRAWALA: We did, judge.

14 We have the other foreign national witnesses'
15 availability. We have also spoken with defense counsel
16 and we're proposing September 26th, that week if it's
17 clear. It appears to work for everyone.

18 MR. LATO: Your Honor, it may not work for you,
19 but those dates can change.

20 MR. KABRAWALA: And also I want to say I haven't
21 been able to connect with a witness. But the witness did
22 provide me with her schedule before today. And I'm going
23 from that schedule presuming nothing has changed in the
24 intervening few days.

25 THE COURT: The 26th then?

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1 MR. LATO: Thank you, your Honor.

2 THE COURT: And again, as I said previously,
3 that was the hearing date. And we'll set a sentencing
4 date on the 26th.

5 Okay, thank you.

6 (The proceedings were concluded at 4:24 p.m.)

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LUCY DOWN

DIRECT EXAMINATION

7

BY MR. KABRAWALA

CROSS-EXAMINATION

27

BY MR. LaPINTA

REDIRECT EXAMINATION

53

BY MR. KABRAWALA

JOLENE LEONARDO

DIRECT EXAMINATION

58

BY MR. KABRAWALA

CROSS-EXAMINATION

74

BY MR. LaPINTA

REDIRECT EXAMINATION

89

BY MR. KABRAWALA

OLENA KALICHENKO

DIRECT EXAMINATION

93

BY MR. KABRAWALA

CROSS-EXAMINATION

137

BY MR. LATO

14

E X H I B I T S

15

Government Exhibit 13 in evidence

134

16

Government Exhibit 14 in evidence

136

17

Defense Exhibit A in evidence

146

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Government Exhibit 9 in evidence

130

19

Government Exhibit 5A in evidence

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Government Exhibit 5 in evidence

54

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Government Exhibit 5 in evidence

64

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Government Exhibit 6 in evidence

65

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24

25

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[094 - adar]

0	2	306	89
094	2	10:14	89:1 158:9
1:3		3553e	9
		3:24	
1	2:15	360	9
104:21	91:11	10:4 16:21 23:22,24 24:2	23:2 124:7 129:20,21 130:5
1:15	2:35	24:19 25:10 32:22 75:20	130:8,9 145:5 147:21
91:13	92:2		158:17
10	20	4	93
13:16,18 58:9 99:11 129:7	26:3 58:8 106:4 107:19	4	158:11
10:34	150:1	16:6 22:14 68:17 69:18	a
16:3	2008	71:8,8 87:9 123:2	
10th	102:16	4:24	ability
11:17	2011	157:6	12:24 21:15 32:23 34:4
11	97:1,2 98:16,23 100:10,16		able
1:6 128:24 152:6	101:11 102:22 103:6 104:6	5	10:16 15:9 33:1,3 35:15
11201	106:18 107:18 120:6,22	5	43:16 52:24 77:20 78:22
1:12	121:22 130:15 132:11	12:16 53:14,17,18 54:5,9	80:12 82:4,6 131:25 136:4
11722	133:9 138:3 139:13 140:9	54:11 64:1,4,5,8 68:18	156:21
1:21	144:13,17 145:3,11 146:10	123:2 158:18,18	abruptly
1180	146:23 148:23 149:2	53	74:2
1:21	154:15	158:5	absolutely
11th	2012	54	68:4 99:8 101:19 107:12
152:17	9:17 14:7 16:3 17:1 60:1	158:18	125:4
12	150:3	58	abuse
15:23 128:24	2013	158:7	100:16
12:15	135:20 151:15,21 152:6	5a	abusive
58:11	2013/7/8	5:23 11:12 12:9,17 13:1	88:13
12:40	135:19	53:17 158:17	accelerate
58:11	2016	5k	7:2
13	1:5	4:18	accelerating
134:3,18,20,21 158:15,17	22	5k1.1	20:11
130	8:11	3:24	accept
158:17	22nd	6	120:16
134	17:1	6	access
158:15	23	5:23 64:21 65:17,20,21	50:21
136	149:1	71:9 87:5 158:19	accompany
158:16	24	631	136:12
137	147:6	1:22	accurately
158:12	25	64	12:4
14	1:5	158:18	acted
1:3 135:15,15,19,23,25	26th	65	140:1
136:1 158:16	156:16,25 157:4	158:19	acting
146	27		25:11,17
158:16	158:4	7	action
15	271	5:23 62:6 158:3	136:10
62:8,9 137:20 155:3	1:11	712-6108	activated
17th	29	1:22	122:3
14:6	150:3	712-6124	activities
18	29th	1:22	59:19 66:10
8:18 9:17 16:3 17:19 82:21	150:7	74	activity
86:13 130:15 145:3,15		158:8	54:25
146:10 148:14	3		acts
18th	69:16 87:8	8	90:23 149:10 150:1
145:11 146:23	30	8	adar
	150:1 151:21	6:1 14:6,24 124:7 135:20	92:21

[additional - asked]

additional 132:6,9,14 152:10	aggressively 25:18	angry 34:21 40:3 101:1,1	approached 108:11
address 134:7	ago 4:13 27:14 28:24 29:1,21 29:24 30:1,7 43:5 56:23 140:5 155:19,22	animal 124:16	appropriate 61:5 71:23 72:1 82:21 83:4 85:6,21 109:11
addressed 92:8	agree 29:4 39:25 44:19 46:21,23 83:7 109:18 146:12 147:6,7	answer 4:22 23:15 25:15 26:9 34:19 44:13 61:14 68:7 77:15 78:4,17,22,24 80:9 80:11,12 82:4,6 83:18 84:17 133:13 137:22,23	appropriateness 85:4
adjectives 68:20	agreed 34:25 35:2 46:10 145:12,13 148:3	142:6,7,8,11,21,21,22,23 142:25 143:6,7,8 144:10 152:19 153:23 156:4	approved 85:16 86:13
administrator 30:19 52:8	agreement 94:12 95:4 155:25	answered 149:8	approximate 100:8 106:5
admit 12:8,21 54:5	ahead 7:19 83:19 110:4 124:1 126:20 134:3	answering 26:12 28:19	approximately 9:15 14:3 16:24 17:17 105:18 106:3,12 107:17 110:18 115:3 130:16
admitted 5:25 6:2,22 54:10 64:4 65:20 130:8 134:20 135:25 146:6	airport 17:2 97:12,13,14 116:11 122:1,6,7,9 123:1,10 138:10,13 154:4	answers 34:10	april 150:3,7
adopt 102:21,24 135:2,8,9 136:18 137:6,9	alarming 33:18 38:17,23 39:2 81:16	anthony 1:14 75:2	area 24:24 40:12 41:24 42:1 43:17 45:21,23 49:2 66:10 82:18 111:22 123:23 124:14 126:23
adopting 93:6	alcohol 39:14,15	anticipate 67:7	areas 82:9
adoption 92:8 135:1 136:16,17	alexa 119:10 129:10	anus 111:24	argument 6:18
advances 53:3	alishaev 92:21	anxious 73:17 88:8	arrangement 70:20 72:3
advise 121:9	allegation 91:2	anybody 47:24	arranging 12:2
advisor 8:22	allegations 91:8 92:19 93:4	anyway 21:11	arrested 31:13 154:3,6
affectionate 146:16	alleged 4:7	apartment 61:12	arrival 13:5 107:17 117:22
affiliated 59:7	allen 1:12	apologized 144:4	arrive 13:15
affirmed 7:17 58:18 93:21	allow 131:24	apparent 38:9	arrived 17:2 35:21 43:11 45:8 46:3 96:13 103:11,11 122:23,25 123:7,7
afraid 102:12 133:1,2	alluded 28:20	appearance 4:20	arrives 90:12
africa 2:8 37:23 38:1 119:9	aloud 16:2 68:25 69:22	appearances 1:9 2:1	arriving 43:1
afternoon 58:23 67:20 74:25 75:13 92:15 94:1 137:18,19	altogether 17:19	appeared 48:5,6 69:8	article 9:4 60:10 95:10
afterward 31:9	ameet 1:13	appears 16:2 105:14 156:17	asked 3:16 14:13 24:15 34:9,12 34:18 36:2 41:8 45:24 51:18,21 54:21,25 55:8 56:4,11,22 76:20 82:1,3,8 84:8 85:3 90:13 92:18 108:12 109:21 122:20 123:15 130:12 132:11 135:7,7 140:16 149:17 154:16 155:25 156:6
age 9:17 14:22	america 1:3	application 13:23 32:16 33:3,8 62:22 63:14 79:4,20 80:22 81:2 81:14 84:10,19,24	
agency 2:19 5:25 9:24 32:10,13,13 32:20,22 35:5 60:20	american 118:10 122:3 137:8 144:13	applied 9:19 31:21 60:20	
agent 154:3,4,13,13,21	angelique 119:9 120:11	appointment 80:16	
agents 7:9	anger 101:7,8	approach 104:25 129:16	
aggressive 57:19,22			

[asking - burden]

asking 18:9,13,14 19:24 23:17 24:14 25:17 78:17 109:8,10 144:14 149:16 152:9,12 153:5 155:23	authorities 30:1,9,21,24 31:5,10,12,16 54:22 55:5 118:2 128:9 136:11	bed (cont.) 49:13,18 50:18 61:11	body (cont.) 113:18,18 116:12,23
asks 5:23	availability 156:15	bedroom 19:18 61:5 82:8	boldface 131:7
asleep 22:13	available 2:11 69:4	beg 108:12,17	boss 76:4
aspects 83:15,24 93:7	aware 4:9,20 51:9	begged 141:1	bother 22:12
assault 106:19 121:23 132:3,12,13 133:10,10 140:9	b	begging 131:24 132:1	bottom 11:19 13:16,19 15:25 131:6
assaulted 140:22 143:16,19 154:14	back 3:15 19:3,6,9,15,19,21,24 22:20,23 26:13 30:18 31:21 41:12 49:15 55:1 69:16,17 73:7,10 97:15 98:16 100:2 100:3 101:18 103:16,18 107:12,13 114:3,5,23,25 118:16,16 120:23 121:9,14 121:19 123:19 133:15 139:4,5,6,8 148:15,17,23 154:7	beginning 88:22 91:3 93:14	bought 39:15,20 122:2
assaulting 127:15 131:19 141:23	backed 73:2	behalf 153:16,19	box 70:2,4 71:9
assigned 59:23	bad 15:20 138:20 139:17,20,22	behaving 18:11 25:11	boxer 47:5,7 48:3,5,6,11
assistant 1:13	badly 111:4,5	believe 17:1 20:3 32:2,4,22 33:15 33:20 36:21,23 38:3 41:16 46:25 51:21 52:15,23 56:9 56:14 60:8 62:6 64:17 66:22 69:13 72:2 80:24 88:10 91:1 106:3 119:8,9 128:24 153:16	boxers 21:21
assuming 14:6 25:6	bag 73:2,5,9,9,10,11	believed 72:7 129:10	boxes 68:22,23,25 69:3,4
ate 39:12	bags 19:16,17,18 24:22	belongings 47:1 52:4	boy 120:15 129:12
attacked 124:16	balanced 131:13	best 12:3 29:8 66:12 69:20 75:9	break 54:7 58:9 90:8 92:18 137:12
attempt 39:17 42:1	barely 117:11	better 84:16 144:20	breasts 48:25
attempting 152:24	barracks 117:17	bianco 1:7 31:24 48:15 52:15 86:2	bricked 67:15
attempts 49:23	based 4:5 31:8 33:10 61:1 76:4 143:10	binder 7:3 11:10 53:15 62:7,13 64:22	brickwork 67:14
attention 11:17 60:1 64:21 93:10 95:6 131:2	basement 61:12	bit 8:12 20:18 21:11 30:3 36:24 38:18 76:11 154:10	brief 5:3 15:14 53:9 89:15 104:22
attitude 129:9	basic 15:11	bitch 109:13	briefly 95:23 99:24,25 135:5
attorney 1:11,13 98:13	basically 6:13 70:5,24 96:3 98:24 99:3,6,14,17 102:15 103:24 104:2 106:15 115:9 119:21 136:24 137:4	black 108:5 112:9 123:8	brilliant 16:6
attorneys 95:17 98:8,9,9	bathrobe 108:4,7	blackmailing 150:21,23	bring 36:10 65:7 92:4 93:10 119:23 128:17
au 2:17,19 5:25 9:12,16,25 10:7,11,15,22 15:6 16:18 17:5,7,17 18:2 24:24 31:22 32:20 43:3 46:13 59:17,18 60:22,24 61:2,5 63:3 66:10 66:11,13,14 67:5,7,9 69:11 70:10,14,17 71:5,6,18 79:18 82:8,21,25 83:21,25 84:6 85:16 86:13 136:6 137:2	beater 21:21 47:10,12,14,16,21	bleeding 116:19,21	broken 21:2
august 100:3 102:1 103:12	bed 21:3,25 22:6,7,10,12 49:11	blood 116:22	brooklyn 1:12
		blooded 101:5	brought 22:11 46:25
		bode 1:12	build 100:4 104:3 121:14 139:9
		body 41:24 42:2 49:3 110:11	building 102:3 103:7 121:12
			built 12:5
			burden 6:15

[business - communicated]

business 8:16 12:14 63:13,21	casual 69:25 70:13 108:8,9,9	child (cont.) 92:9 93:6 94:24,24,25 95:1 96:7 99:10 102:21 103:13 119:17,18 120:8 135:1,8,9 135:13 136:18 137:7 146:17 149:3	closed 22:13 111:14,15 112:1,5
c	casually 108:6	children 38:19,23 60:23,24 69:24 70:3	closely 79:13
cadman 1:11	cat 1:25	child's 15:12 62:4	closer 8:1
california 26:21	catholic 59:2,3	chilled 73:17	closing 73:5,7
call 2:1,16 7:7 22:19 24:1 58:12 70:14 72:20 109:7,12 112:19 118:16,16 120:1,5 128:8,10,11,11 137:21	caught 73:6	choice 10:10 117:6,22,24 144:20	clothes 95:13 109:2,22 124:20,22 124:25 125:25 141:3,6
called 7:16 10:4 23:9 24:2 58:17 59:8 93:20 118:15 141:14 151:22	caused 69:3 74:1	choices 71:24 153:24	clothing 9:4 60:10 95:10 126:7
calling 2:22 3:2 5:15 24:18 109:5 109:16 133:5	ceased 150:25	choosing 32:19	cm 1:20
calls 58:13	celebrating 99:1	chose 32:22	coffee 144:5
calm 73:18 88:10	cell 122:2,2,4	chosen 10:9	cold 117:11
cancelled 150:19	central 1:4,21 122:8,9,10 123:3,6 123:18	chronology 76:1,3	collect 72:16
capable 45:2	certain 15:16 29:5,6 41:15 45:23 70:11 76:11 79:8 83:15,24 84:5,25 92:6	cinema 108:19,21 109:1	collected 18:3
capers 1:10	certainly 2:12 143:12	circumstances 5:9 15:19 28:12 33:25 36:3 37:5,6,10	college 9:17 32:3
capture 71:2	cetera 14:16 19:25	city 55:18 56:3 122:23	color 67:13
car 18:8,17 19:21 37:9,14 39:3 39:4 42:6,10,12 44:4 55:22 56:3 73:11 123:7,9,13,13 123:16 124:10 126:16,16 126:17,21 127:9,9,13 143:16 144:24	chair 66:23 95:16	civil 153:11	combs 134:25 135:25 136:25 137:25 138:25 139:25
card 122:3	chance 71:25 121:10,12 128:20 140:16	class 80:10	140:25 141:25 142:25 143:25 144:25 145:25 146:25 147:25 148:25 149:25 150:25 151:25
care 14:14 15:11 17:11,13 43:3 90:2 110:24 146:17	changes 135:13	classes 80:7	152:25 153:25 154:25 155:25 156:25 157:25 158:25
carefully 86:23	change 71:3 100:19,21,25 104:7,14 156:19	clean 69:23 70:8 146:14,16	comfort 34:12
caring 104:12	changed 37:5,6,8,10 156:23	clear 28:23 47:15 48:22 66:8 75:5 77:10 84:24 97:23	comfortable 28:11 32:10 82:20 83:4
carried 25:3	changes 138:22	character 102:5 113:4 116:25 120:4 131:18 132:10 156:17	coming 24:8,24 25:25 30:20 67:5 128:14
cars 125:12	character 139:18	clearly 132:7	commands 131:8
case 4:2 17:21 90:16 91:6 105:14 143:11 151:24 153:8	check 61:4 68:19,20,22 69:3,4 70:4 71:9,14 80:25 83:16 118:17 148:18,20	click 100:22	commission 135:3
	checked 68:23,25 69:21 70:2 71:13 84:25	client 4:15	commit 149:3
	child 14:14 15:11 17:11,13 18:18 18:19 60:23,24 61:24 67:24 72:23 85:9,13,24 89:23	close 30:7 43:20 99:1,11 106:3,3 107:22 130:17,18,25 131:15 133:12 154:10	committed 101:17
			communicate 11:6 101:21,23 122:1
			communicated 92:17

[communicating - court's]

communicating	connect	control	cost
122:4	23:24 26:19 156:21	108:20	153:9
communication	connected	conversation	costume
96:4	10:21	19:5,25 37:2 38:6 41:15	20:4 42:20,21 56:5,5
company	connection	66:9 152:2,3,5,23 153:3,10	couch
5:24 9:19 35:6 52:8 63:16	3:20,23 6:11 7:1 15:5 90:16	153:12 154:12	47:2 66:22
75:20,20,21,23	117:16	conversations	counsel
compared	consciously	12:4	2:12 15:24 74:17 89:11
69:5	44:11	convince	156:15
compelled	consensual	49:18	counting
94:7	131:12,20 148:5,8	cooking	152:8
compelling	consent	145:13 146:13	country
4:1,8	6:11,17	cooperator	106:10,10 107:12,13 118:9
complain	consider	72:21	118:9 135:1,8,10,14 137:10
119:19	80:10 87:22 131:19	coordinate	154:4
complete	considered	59:19	county
32:16 85:15	32:12	coordinated	59:23,24,25
completely	considering	9:24	couple
70:23 99:23 104:14 109:9	4:6 52:16 118:3,3,5,6	coordinating	98:12 100:8 124:4 131:4
115:11,14 121:4,4 126:8,16	132:24	13:5	135:2,12 154:1
complied	constantly	coordination	course
31:19	101:22 109:15 110:19	17:11	5:6 32:15,21 60:2 63:13,20
computer	111:6 128:17	coordinator	88:22 100:12 113:16,20
36:18 79:8 86:25	consulate	24:24 59:11,13,16 65:24	149:19
concede	137:8,9	73:1 79:12,19 87:12	court
143:10	consulted	copy	1:1,4,20 2:1,3,14,25,25 3:3
concern	2:12	130:1 134:15 135:18	3:6,10,14 4:23 5:7,12,14,18
51:25 107:10 118:12	contact	148:22,22	6:4,7,24 7:5,12,19 8:1 9:9
120:10	21:15 22:17 24:25 30:14	correct	12:16,18,21 13:10 21:7
concerned	33:6 50:4 96:12 117:11,21	2:9,10 9:13,14 12:19 19:14	25:14,15 27:18 44:12 53:8
129:10,13 136:16,19,19	118:5 132:24	28:24 29:6,9 30:1,24 31:25	53:17 54:9 58:2,4,7,9,12
concluded	contacted	33:4,11 34:2 37:5 39:21	64:2,4 65:18,20 68:3,5,12
157:6	25:7 30:23,25 96:13,15	40:12 41:13 47:2 48:1,2,20	72:10,12 73:24 74:5,15,20
concrete	117:9,21 121:3,3,5	49:3,4,5,8 51:5 63:8,23	76:20 89:14 90:1,5,8,11
72:1	contacting	66:2 68:23 79:17,23 80:3,4	91:11 92:4,6,8,10,12,15,23
condition	31:3	80:16,19,20 81:2,6,15,19	93:3,17 95:16,19,21 97:24
15:19 69:19 71:1 107:15	contained	81:25 82:12,15,19,22 83:12	104:20,20,24 105:1,4,13
conduct	63:9,19 65:5,5	83:13,15 84:8,9 85:1,4,8,10	110:2 114:4 115:1 129:17
5:16 63:18	content	85:11,17,25 86:9,14,19,25	130:6,8 134:20,25 135:25
conducted	152:2	87:3,4,24 88:7,21 94:8,9,10	135:25 136:25 137:12,25
46:13 80:2	continue	94:19,20,22,23 95:4,5	138:25 139:25 140:25
confer	45:4 100:1,4 101:17 104:2	96:24,25 97:17 98:1 102:6	141:25 142:5,10,25 143:3,6
6:5 11:13 74:17 89:11	150:4,24 151:16 156:11	117:4 121:15 130:1,18	143:9,14,25 144:25 145:25
112:14 114:1 126:2	continued	134:13,15 135:18 140:24	146:6,25 147:4,9,14,25
conferences	101:24 133:18	141:10 142:15,20 143:20	148:25 149:25 150:25
92:24	continuing	143:23 146:21 148:15,24	151:25 152:25 153:25
conferencing	134:1	149:10,23 151:1 153:1	154:25 155:25 156:8,10,25
13:23	continuously	correctly	156:25 157:2,25 158:25
conferring	23:1 110:8	16:5,14 131:4,16	courthouse
2:13 110:15	contract	correspond	1:20
confirm	129:22 130:12,21,23 131:1	11:9	courtroom
16:12	132:16,22 145:4,6,8,12	corresponded	3:13 8:25 60:6 77:21 92:14
confuse	146:21,24 147:16,23,24	16:22	92:22 95:9
75:10 77:8	148:3,20	corresponding	court's
confusion	contrary	13:14	7:3
89:5	4:12		

[cover - direct]

cover	d	days (cont.)	depiction
22:11 93:6	dad	138:18,21,24 139:22 150:2 156:24	54:1
covered	dad's	dealership	deputy
59:24 92:7	22:24 23:1,3,16 24:1 50:1 61:19	8:22	2:13 92:22
covers	dalas	dealing	describe
6:1	67:16	106:13	10:11 14:9 41:21 47:18 60:17 68:20 72:18 104:8 106:22 112:1 114:14 123:24 124:1 130:11 135:5
cr	damages	dealings	
1:3	153:8,9	88:22	
crawl	damned	dealt	described
109:3,4,21 110:21 111:5	151:23	80:15 118:10	4:15 30:13 47:21 48:15 52:20 69:20 88:8 112:7 131:18 133:8 140:11
113:15 114:19 141:8	dancing	december	describing
crawling	15:2	148:23,25 149:1 151:15,21 152:6,17	114:25
114:18	danger	decent	designated
crazy	40:17,19 44:9,15,16,18,21	69:8	82:24
126:12	dangerous	decided	desperately
credibility	45:4 46:23 81:16	9:16,18 26:23 44:11 47:18 49:10 96:24 100:1 121:10	128:15
91:8	dark	declaration	despite
credible	124:6,6,8 126:23	6:1	86:12 128:19
99:7	database	decline	detail
creeps	10:13 11:2 34:1 53:25 54:2	71:21	124:1
71:21	date	declined	details
creepy	2:5,13 61:19 98:3 103:9,11 130:15 152:16 156:11 157:3,4	39:15,20	15:14 16:21 17:13,24 112:3
71:20 86:3,7,12,18,20	dated	defendant	determine
cried	130:14 135:19	1:5 95:18 143:3	70:5
116:5	dates	defendant's	determined
crimea	75:16,17 156:19	146:6	104:3
103:14	dating	defense	develop
crimes	117:19	1:14 2:12 5:6,18 89:11 90:19 93:15 95:19 145:17 145:24 146:4,7 156:15 158:16	76:3 100:1
94:22	daughter	defer	developed
criminal	14:13,17,18 15:8 37:10,15 37:21 38:1 39:5 43:3 54:18 57:3,7 61:19 62:5 64:18 66:23 67:8 72:3 88:24 89:7 89:9 96:8,21 99:13,22 102:5,7,18 118:17,23,25 119:4,10,11,12,14,19,23 120:10,16 128:16 129:11 136:4,5 139:13 142:20 149:10,18 150:1,5,25 153:9 153:16,20	143:3	75:22 95:24 96:1
151:24	daughter's	definitely	dialog
cross	14:20 57:10 62:3	116:14	83:20
5:4,6 27:18,22 74:20,23 91:7 137:13,16 158:4,8,12	day	degree	dialogue
crying	4:25 17:9 30:13 67:18 84:21 99:2 107:20,23,23 116:10 118:16 122:24,25 146:20,22 147:15,17,17,19 148:19 152:9	8:17	83:14
24:15 116:6	days	demand	diamond
csr	17:8,15 98:25 99:11 100:20 101:15 106:4 108:13 117:21 132:6,9,14 138:17	149:21	16:7
1:20 134:25 135:25 136:25 137:25 138:25 139:25 140:25 141:25 142:25 143:25 144:25 145:25 146:25 147:25 148:25 149:25 150:25 151:25 152:25 153:25 154:25 155:25 156:25 157:25 158:25		demanded	difference
current		149:20	120:15
59:1		demanding	different
currently		149:19	67:1,3 109:5 121:4 141:15 150:2 152:8
8:19		demeanor	difficulty
cushioned		38:14 39:1 40:1 73:16	84:4
66:22		demonstrate	diligence
custody		71:25	32:9 33:24
61:18,25 72:3		den	dining
		64:13,15 66:21	40:12
		depending	dinner
		5:4	38:4,6 39:10,25 40:3,5
			diploma
			8:16
			direct
			2:22 3:4 5:16 7:22 45:10

[direct - evaluation]

direct (cont.)	downloaded	eastern	encourage
46:6 58:21 76:10 77:19	84:11,12 86:25	1:1 99:16	119:22 128:16,17
85:3 90:13,19,22 92:11	downstairs	easy	ended
93:11,24 134:1 158:3,7,11	19:20 21:18 22:17 25:5	69:1,12	52:7
directing	26:1 45:14,16,18 47:1,4	eat	energy
11:17	108:2	18:8	115:15
dirty	drafted	education	engage
109:13	145:6	8:15	33:10 83:24
discharge	dragged	effect	engaged
115:14 127:2	141:5	132:13	37:1 148:5
discharged	draw	effort	engaging
115:11,13,14 132:5	64:21 95:6	10:22	131:12 149:10 150:1
discretion	drawing	eight	england
82:14	60:1	152:7	8:6
discuss	dress	eighth	english
19:22 90:11 156:11	122:15	59:6	109:24 122:17
discussed	dressed	either	enjoy
14:10,11 135:5	21:20 108:3,5,6 122:12	18:11 24:12 28:15 54:22	131:13 136:10 148:6
discussion	drink	75:7,20 76:14 89:3,6 152:9	enjoyed
3:17	19:19 21:18 39:20,21 57:16	ejaculated	148:10
discussions	drinking	115:16	enter
93:6	39:17	electronic	145:4,12 146:11
disgusting	drive	87:19	entered
112:21 113:1,2,2	15:9,10,16 123:1,10,18	eleven	75:16 79:8 87:2
distance	124:3,5 125:11 126:10	10:8	entering
22:5	driver's	ellen	130:24
district	124:14	134:25 135:25 136:25	enters
1:1,1,4,8,20	driveway	137:25 138:25 139:25	3:13 92:14
document	43:12 67:15	140:25 141:25 142:25	entice
11:23 62:11 64:24 87:14,15	driving	143:25 144:25 145:25	50:17
87:18,21 129:21 130:1,11	15:9 18:8 123:20 125:7	146:25 147:25 148:25	entire
134:4 148:9 150:9,10	126:12	149:25 150:25 151:25	22:8 45:13 50:20,21
documents	drove	152:25 153:25 154:25	entitled
6:21 29:20,23 75:13 80:19	36:23 41:12 73:11 116:10	155:25 156:25 157:25	153:17
86:17 129:15	dual	158:25	entrance
doing	104:11 140:2,6,7,8	email	61:6
15:5,11 24:5 25:6 68:13,13	due	11:8 12:5 13:3,16,16,19	environment
101:23 111:6 118:17,18	13:14 29:4 32:9 52:23	23:6 50:1 121:3 130:14	85:19,21,24
121:6 123:15 125:5 126:25	duly	email.com	equal
127:1,20 128:12 141:17	7:16 58:17 93:20	1:22	131:14
153:21	duties	emailing	esq
dominick	15:6 59:15	22:24 23:1,7	1:12,13,14,15 3:13
1:20	duty	emails	essence
domtursi	79:19	12:11,14,15 13:12	54:21
1:22	dynamic	emergencies	essentially
door	84:8	17:12	13:4 120:7
21:1 22:13 24:13 26:9,12	e	emergency	established
51:1 61:6 72:25 73:1,4,5,6	earlier	17:21,25 36:3 44:23	30:6 32:13
73:7,10 88:16	12:23 54:21 140:18	emma	establishing
doors	earn	24:2,21 25:10	99:4
51:4 70:23	132:6	employed	et
doubt	earned	8:19 59:7	14:16 19:24
57:1,5,9,12,15,18,21 71:11	132:8,14	employment	etcetera
doubts	east	9:25 60:2	137:3
71:15	1:11	encounter	evaluation
		115:3,4,18	84:25

[evening - fixing]

evening 18:7 19:9	expectations (cont.) 83:22	fair 13:3 16:19 17:14 30:12 31:8 39:2 40:16 43:19 44:7 44:9,14 53:1 60:15 77:1,17 77:19 79:1,7 130:20 140:1 146:9 152:25	felt (cont.) 44:18,19 49:7,21 69:5 72:21 82:20 83:25 85:19,21 85:24 116:13 127:2 128:2,6 150:22,23
event 30:6 76:15 128:19 143:10	expected 84:6	fairly 12:3	fi 22:22,24
events 56:22 59:20 76:1	expecting 102:1 103:10 107:23	fall 120:22 121:22 133:9	fifth 131:6
eventually 50:4	expects 71:5	familiar 91:6,10 123:23 140:15	fight 113:19
everybody 71:25	experience 78:7 89:21	families 10:14,17 18:3 32:17 59:18 69:6 90:2	figure 128:21
evidence 6:3,12 12:9 13:1 54:11 64:5 65:21 72:1 130:5,9 134:18 134:21 136:1 143:10 146:7 147:22 152:10 158:15,16 158:16,17,17,18,18,19	experienced 89:22	family 10:9 26:19,21 27:3 32:24 36:14,15 52:17 59:18,22 60:21 61:15,16 62:24 63:11 63:11 64:25 65:5,8,13 66:7 66:14 67:6 68:21 70:8 71:5 71:21 83:15 84:8 89:22 99:12,18 117:13,13 118:13 118:14,25 119:6 121:12,13 121:14 128:18	file 63:22 65:14 153:8,11
exact 4:13 67:21	explained 23:21 24:16 31:13,24 42:4 42:19 45:10 50:2 52:15 80:24 86:23	family's 61:2	fill 62:15,16,18,20,24 64:25 65:10
exactly 43:9 71:7 78:1 120:9,9 125:8 142:1 151:2	explaining 38:22 39:4	far 51:9 66:1,3 105:11 136:11	filled 62:19 65:2,8 67:10
examination 3:4 5:16 7:22 27:18,22 45:10 46:6 53:12 58:21 74:20,23 85:3 89:17 93:11 93:24 134:1 137:16 158:3,4 158:5,7,8,9,11,12	explains 136:25	fare 123:11,12	filling 66:1
examined 7:17 58:18 93:21	explanation 125:4	father 23:11 24:12 96:8,21 119:25 120:8,9 128:20 150:6	find 10:5 22:22 34:12,15 60:22 108:14 131:25 136:22
exchange 33:13 94:15	exploitation 94:24	fatico 2:6 3:18,20 6:22	finding 32:9
exchanges 13:3	expressed 51:25	fax 1:22	fine 92:13 105:13
exciting 35:21	extended 3:12 8:16	fbi 7:10 152:9 153:20	finish 84:16 90:18 120:4
exclamation 16:7	extreme 70:21	fear 133:1	finished 5:4 9:17 18:2 84:18 86:5 126:25 127:24
excuse 23:8 153:15 155:6,21	extremely 69:25 70:13 136:19,19	federal 1:21 94:21	first 2:16 5:20 7:16 9:22 23:6 31:21 36:20 37:1 58:17 63:14 65:23 66:5 69:15 79:3 92:17 93:20 95:25 96:2,15 98:25 99:25,25 100:15,17,23 101:5,10,14 101:14 107:2 117:25 118:8
excused 58:6 90:7	f	fee 123:9	120:24 128:25 129:7,20 131:23,23 132:10 136:15 138:15,17,24 140:22 141:5 142:15 153:22
exhibit 6:1 11:12,20 12:9 13:1,4 53:14 54:5,9,11 62:8 64:1,4 64:5,8,21 65:17,20,21 87:5 93:15 104:21 129:20,20,21 130:5,8,9 134:18,20,21 135:23 136:1 145:5,17,24 146:4,6,7 147:21 158:15,16 158:16,17,17,18,18,19	face 63:6,6	feel 25:23 40:17 44:9,15,16 46:1 67:12 68:20 78:3,5,14 82:17 150:20	firstly 11:2
exhibits 5:23 6:2 7:4 129:19	facilitates 63:7	feeling 46:22 86:3,7,12,18,20	fist 28:8 111:15
expect 3:3 5:3,5 10:7	facing 155:2	fell 22:13	fits 66:13
expectations 60:21 61:2 70:12 71:4	fact 6:15 13:25 19:6 28:20 33:20 38:22 46:9 50:1,23 70:23 88:23 141:12 143:10 151:15	felt 26:2 32:10 34:9 40:19	five 17:8,9,15 21:24
	factor 32:19		fixing 67:16
	factors 32:12		
	facts 2:23 32:23		

[flew - hand]

flew	frame	getting	government
122:6	106:12	16:22 25:8 26:4 66:3	1:10 2:21 3:1,3,16 4:14,17
flight	free	135:13	5:14,23 6:1,15 7:16 12:8,9
16:23 121:15	5:7 94:4	giant	13:1 27:16 54:4,5,11 58:13
flipping	friday	11:10	58:17 63:25 64:1,4,5,8
71:8	38:2	girl	65:16,17,20,21 89:1 90:17
floor	friend	54:16 64:17 136:7,25	92:19 93:4,20 94:7,13 95:4
109:3,4,22 110:21 111:5	117:16	girlfriend	103:20 130:4,5,8,9 134:17
113:15 114:14,16 141:8	friends	136:13	134:18,20,21 135:15,19,22
flustered	103:24	girl's	135:23,25 136:1 143:9
77:2,22	front	136:7	145:5 147:21 158:15,16,17
focus	11:10 62:8 73:4 135:12	give	158:17,18,18,19
90:3,20,20,22 92:19 93:4	fun	31:16 70:17 71:21,24 77:15	government's
131:2	16:11	84:15 121:10,12 128:19	2:6 3:22
focused	funds	135:3 151:16,16,19	grab
91:7 93:12	101:20 103:17 107:12	given	41:19 73:5
follow	furnished	3:1 143:2	grade
81:2 113:5 131:5	80:19	giving	59:5,6
followed	further	126:10	graduated
2:18	19:2 27:17 58:1,2 74:18	glass	32:3
following	89:12 90:4 137:11 153:2	21:1	gray
105:18 117:25 120:6	156:7	go	9:5
132:12 133:18 137:15	future	6:17 7:19 20:1 21:25 22:6	great
follows	96:6,7 144:25	26:13,23 44:4,7 46:11	91:11 150:6
7:18 58:19 68:19 93:22	g	49:11,11,18 52:20 55:15	green
force	games	60:20 63:2,16 65:12 69:17	60:11 95:12
39:14 112:23	39:17	83:19 90:17 99:19 103:15	groceries
forced	gap	103:15 106:11,14 107:12	146:14
109:3 142:16	9:19 10:4,14 16:21 23:22	107:14,25 108:14 110:4,7	grow
forceful	23:24 24:2,18 25:10	117:7,23 122:7 124:1,21	25:18
111:2,3 140:10	gather	126:17,20,21 131:25	guard
forcing	61:1 66:12	136:20 139:4 144:19,22	132:18
94:10	gathered	146:15 148:17 153:2 154:7	guess
foreign	16:21	goes	6:18 19:20 38:22 129:8
118:9 156:14	gathering	63:16	guilty
forget	66:11	going	4:6 94:21,24 95:3
129:12	gauge	2:16 4:17 5:1,15 9:12 11:4	guy
forgoing	70:12,19 71:1	11:17 12:21 13:8 14:5	141:18,25 144:3,3
6:2	general	16:23 20:1 21:5,9 24:15	h
forgot	17:10 69:19	25:5,21 26:11 28:2,7,7,8,9	hair
132:3	generally	42:17 49:13 52:16 55:15	112:9,9,10,24
form	11:25 17:17 56:23	56:18 68:6,18 69:1,12	half
13:8,10 62:14,16,18,19,23	generated	70:10 73:14 75:2 80:18	154:9
71:2 81:3 86:24	75:19	91:9 92:16 98:16 100:6	halfway
forward	gentle	112:12 122:8 125:15 131:3	67:15
6:17 67:2 71:8 149:3	111:2 121:9 131:11	134:23 136:3,11,14 137:3	halloween
150:13	gentleman	137:20 140:12 143:3	20:3 42:5,14 56:5
found	33:22 148:4	147:21 151:17,20 153:20	halted
10:6 14:15 36:6	gentlemen	156:22	83:11
foundation	60:12	good	hand
6:19	germane	2:3 3:14 5:17 7:24 16:9	22:3,4 41:17,19,19,20,21
four	92:9	27:24 58:23 74:25 92:15	48:16,18,20 49:15 57:13
16:7 28:24 29:1,21 30:7	gesture	94:1 96:21 104:12 119:24	84:10 109:23 110:3,6,7,22
43:5 68:23 69:21	127:19 128:5	120:8 128:20 129:6 131:11	110:25 111:8,9,14,14,15,17
fourth	gestured	137:18,19 139:19,22,24	112:1,4,5 114:12 124:15,19
134:23	114:24	148:4	124:25 125:1,19,25 127:12

[hand - indications]

hand (cont.) 127:18 141:12,24 143:22 144:7	hesitant 118:8	honor (cont.) 156:9,18 157:1	humiliate 109:16 111:6
handle 2:25	hi 7:25 27:25 75:1	honorable 1:7	hundred 23:7
hands 53:2 111:1 113:24 114:2,5 114:20 124:17,21	hide 45:20	honor's 2:13	hurricane 26:22,24,24 27:4 52:23
handwriting 84:13	highest 8:15	hope 4:22 120:2,3,7 144:24 145:1,2 155:5	hurt 110:23 111:3,4 127:9 143:25
handwritten 86:24	hired 2:17 67:5	hopefully 70:15	husband 96:6,6,20 102:9
hang 4:24 5:8	hiring 153:10	hopes 94:18 98:18	i
happen 16:11 104:14 152:16	history 102:15 148:18	hoping 121:14 155:7,9,11,20,24 156:3	identification 95:21 145:18,24
happened 16:20 17:3 18:1,6 19:12 20:14,14 21:17,23 22:6,25 24:4,20 25:1 26:6,7,11 28:3 29:9,11,21 30:6,20 31:8 41:16 72:18 73:20 74:1 107:3,20,21 108:25 116:4 121:5 123:4 124:2 133:6 144:14 145:16 147:5,7,8,10 147:11,12 148:11	hit 127:12	hose 20:6,8 56:9 122:16,17 124:20 125:21 126:11	identified 9:7 77:22 95:15
happy 2:22 119:15 123:14,16	hmm 16:1 26:25 31:23 35:19 75:11 115:24	host 10:16 32:17,24 36:14,15 59:17,18,22 61:1,14 62:24 63:11 64:25 65:5,8,13 68:21 69:5 71:4 83:21 85:16 86:13 89:22 94:21	identify 77:20
hard 25:9 112:15	hmmm 36:12 38:15 39:22	hot 101:4	identifying 9:3 60:9 95:10
harmony 131:14	hobbies 14:16 15:10	hotel 17:4,6 35:25 36:21	immaculate 70:18
harm's 36:6	hold 23:22 24:1 62:21 114:2,10 114:11,21 120:3 145:17	hour 5:4 23:4 115:5 140:5 154:9 154:11 155:19,22	immediately 102:23,24 107:24 136:20
head 127:9,12	holding 73:4	hours 67:21 115:5 124:5	immoral 150:1
hear 4:4 90:18,20 109:20 138:5	hole 126:8	house 19:4,10,13,15,17 20:11,12 20:15 25:22 26:18 42:8,9 42:12 45:17 50:21,23 51:5 51:10 52:4,13 55:13 57:19 61:9 64:15 66:16,18 67:11 67:12,16 69:19 70:6,15,16 70:18 72:16,25 78:11 81:8 81:11,20 98:23 99:2,17	important 32:19 67:4 119:3
heard 74:9	home 24:17 26:23 30:13,18 35:3 35:6,9 37:15,15 41:12 43:1 43:11,12,23,25 45:8,11,13 45:20 46:3,13 55:9 59:19 60:18 61:4 65:12 67:19 69:24 70:3,13,25 71:12 72:22,22 73:11 80:1,2,5,14 80:24 81:24 82:1,2,7,10,18 85:1,12,15 89:23 108:7 118:16,17 132:17	102:15 105:24,25 106:1,6 106:15 107:3,6,9,15,24 108:13 117:8 118:15 119:13 120:20 123:19 131:24 140:23 146:15 148:16,16,22	impression 69:15 101:6
hearing 2:6 3:18,21 4:3 6:23 7:1 90:15 91:1 93:9 156:12 157:3	homeless 102:16	household 10:23 15:7	imprisonment 155:3
hearsay 74:5	homes 43:16,20 44:5,8	housekeeping 5:22 92:5	inappropriate 40:8
held 73:8 120:1,7	honest 70:7	huh 151:14	inaudible 144:16
helena 131:13	honestly 154:22		incident 28:23 30:10 31:6 118:4 120:6 121:2 131:23 141:20 142:16
help 44:5 67:5 134:25 135:2,3,7 135:9 136:15,18 137:5,6	honor 4:12 5:17 6:9 7:7,20 9:6 13:9 27:16 53:10 54:4 57:25 63:25 65:16 74:16 91:5 93:2,14 95:14 104:25 130:4,7 134:17 135:22 143:2,12 146:3 154:2,23		included 153:4,11
helper 136:9			including 105:5 141:16
			incorporated 59:8
			independence 99:2
			indicate 86:17 102:20 110:2
			indicated 2:2 4:23 76:10 85:6 86:7
			indicating 2:7 86:2 114:4
			indications 85:12

[indicia - kicked]

indicia	37:15	introduce	64:1 65:17
6:13,22		introduced	46:20 145:5 147:22
individual	3:23	investigate	79:20
8:24 60:3 95:6		investigation	35:12 48:1 80:21
indulgence	31:9 100:3	invitation	3:12
7:3		invite	35:2
infant	137:4	invited	3:19 90:25 117:12
142:19 150:5		island	19:7,10 55:20 56:4 59:24
information	24:11 98:13		97:6,8,11 98:23 123:19,22
4:13 10:19 11:3,4 13:14			124:4,5 125:10,14 138:9
14:6,15 17:12 37:20 61:1		islip	1:4,21
62:17 63:2,9,12,19 65:4,10		issue	2:7 92:5 100:19,23
66:4,12 79:8,15 87:2		issues	3:20 92:9 93:12 103:9
initial	8:23 91:3 93:8	italian	101:4
13:13 23:6 123:21		items	86:24
initially	115:19 131:12,20 148:6		
3:12 33:6		j	
initiate	45:23	jail	155:11
62:25		jealous	101:12
initiation	interested	jet	22:9
145:7	9:18 42:17,20	jfk	17:2
initiative	interests	job	70:17
145:8	14:25	joe	12:1 16:13 139:22,22 140:1
inquire	interexchange	joined	joined
4:21 84:1	5:24 10:1,2,13 11:8 12:2,5	7:9	7:9
insert	13:16 16:21 17:24 23:25	joint	61:25
110:22 115:23	25:7 53:25 54:2,14 59:8	jolene	2:18 26:8,18 58:13,16
inserted	60:3 63:15 65:14 71:18		87:12 158:7
141:12	89:21	joseph	1:5,7 8:24 16:3 57:2,5 60:3
inside	interexchange's		60:6 94:2 95:7,8,15 131:10
45:8 82:1,2,25 110:7,22	63:13,21		131:14 146:11,16 148:4
111:17 113:18 116:13,20	international		152:7
116:21 124:21 125:1	72:20	judge	1:8 2:10 4:10 5:22 31:24
141:24	internet		48:15 52:15 53:18 58:8
inssofar	31:25 32:6		
12:10	interpreter		
inspection	110:15,16 112:12,14,15		
80:2,14,25 81:24 82:7,8	114:1 126:2,3 145:20		
inspections	interpreters		
80:3,5	92:20,21,24		
instance	intervening		
106:16 107:2 118:1,14	156:24		
125:11	interview		
instances	10:25 11:5,7 12:2 13:5,13		
106:24 131:18 133:8,9	13:25 14:10 15:1,4 16:17		
instructions	59:18 60:19,21 62:14,23		
36:5,8 65:24,25 80:7	63:6,7,18 64:25 65:5,13		
insult	66:7,20 67:18 69:2,20		
109:15 110:20	71:16 84:23		
insulting	interviewed		
109:6	60:18 66:15 75:17		
insultive	interviews		
141:15	33:21 66:21		
intellectual	intimidated		
69:1	25:24 49:7		
	intoxicate		
	39:17		

[kid - lot]

kid	know (cont.)	lawsuit	listen
67:17 129:3,4,11	151:8,23 154:18,20	153:11	82:4
kids	knowing	lawyer	listening
70:9,22 118:22 119:2,4	102:11	153:10	125:16,17
129:9	knowledge	lay	literally
kiev	12:3 63:13 65:13 67:23	6:18	73:7 107:7 108:3,17 110:23
103:22,23	68:10 132:21	laying	131:24 132:1
kind	known	114:17	little
17:5 20:4 36:23 63:3 70:19	10:2 51:13	132:18	8:1,12 29:1 30:3 49:7 59:14
95:3 116:12 117:15,19	I	learn	64:17 84:4 136:6 154:10
126:10 128:14 129:2 132:8	lack	32:23 74:1	155:9
139:21	6:21	learned	live
kingdom	ladies	37:25 89:1,6	14:11 43:19 71:3 99:15
20:9 26:13 27:6 55:1	41:5	leave	103:23 119:23 128:18
kiss	lady	5:6 7:3 55:12,13 72:22 74:2	lived
49:5 127:17,17	24:2 128:23 129:7	106:10 107:6,8,8,9,15,24	62:1 69:24 70:3,25 78:11
kitchen	lag	108:15,16 116:10 132:11	85:9 128:22,24 129:6
108:2,3,10,19 141:5	22:9	140:23 152:18	lives
knew	land	leaving	14:14 99:15
33:7 117:11	8:22 16:25	57:19 117:4	living
knocked	langone	left	61:5 67:16 70:20 99:16
26:8	7:10	21:1 24:21 30:12 40:25	local
know	language	43:23 50:23 51:10,14 52:4	59:11,13,16 65:24 87:12
2:5 3:22 4:6,25 5:10 6:11	109:7,9,11,14 110:20	55:8 110:3 115:15 116:9	location
11:21 16:5 20:10 21:10,11	132:19	133:12,12,15	123:25
22:19 24:18 28:15 39:16	lap	legal	lock
43:19 44:22 45:19,22 46:16	25:3	61:12 118:1	51:1,4
48:7,9,10,12,13 60:13,13	lapinta	leniency	locked
60:14 67:21 68:13 69:7,9	1:14 3:9 5:21 11:13 12:10	94:19 155:5,7,20,24 156:4	126:16,17
69:14 70:10 73:14 75:6	12:17,20,25 13:8 20:19,22	leonard	long
76:16,17 77:23,23 78:9	23:14 25:13 27:19,23 28:1	1:15	4:25 10:7 17:6 19:7,10 22:9
79:4 80:8,10,11 83:16	44:17 53:5,7 54:8 58:2,3	leonardo	55:20 56:4 58:7 59:24
84:14 89:2,2 90:13,14	64:3 65:19 68:2,11 72:9	2:18 5:3 26:8 27:9,13 58:14	78:13,13 90:14 97:6,8,11
91:10 92:6,17 93:7 96:4,6	73:23 74:4,12,14,21,24	58:16,23 74:25 75:12 76:6	98:23,24 105:18,19 106:1
99:4,10,18,19,23,25 100:18	75:2 89:12,24 158:5,9	77:6 78:15 87:8,12 89:1,13	112:9,9 115:3 121:18
101:3,20 103:9,16,22	laptop	89:19 90:6 158:7	123:19,22 124:3,4,5 125:10
104:11,12 105:6 107:4,5,7	22:16,23 25:3 72:25 73:4,8	leonardo's	125:13 138:9,14 154:9
107:11,11,14,25,25 108:6	larbu	26:18 27:3	longer
108:11,11,13,14,15,17,18	25:10	letter	26:2
109:2,6,12,13,15,19,23,25	larby	2:6 4:18 136:21 137:8	look
110:5,6,11,22,22 111:5,12	24:2,3,12	letters	20:17 29:20 48:5 65:23
111:22 112:2,8,10,17,18,22	larusso	3:22	104:23 105:1 134:8 135:15
112:24 113:1,19 114:11,18	3:6,8,13,14 4:12 5:8,9,17	level	136:21
114:22 115:6,12 116:8,14	lastly	8:15 34:13,15	looked
117:5,10,11,15,20 118:11	53:1	liaison	35:9 67:12,16 79:12 81:10
118:12,19,22 119:2,3,18,18	late	59:17	82:24 83:2 85:9
119:21,24 120:15 121:5,7,8	2:7 19:15 55:24 96:14	life	looking
121:25 123:15,17 124:7,13	98:22,22 122:24	15:19 32:3 83:15	13:17 15:8 26:21 43:3
124:15,17,21,22,24 125:1,3	lato	28:11 60:11	66:13 67:2 77:8 96:5,7,20
125:5,5,8,25 126:1,5,9,10	1:15 6:5,9 12:23 21:6 91:5	line	96:22 102:9 104:5,16
126:12,13,23,25 127:1,7,9	93:14 95:20 105:1 130:7	4:14,14 10:6,13 22:18	115:10 135:2 144:21 153:5
127:17,24,25 128:1,3,6,13	134:19 135:24 137:17	131:6	looks
128:14,18 129:5,8 131:23	142:12 143:2,15 146:3,8	list	70:19 123:24 129:22
132:2,4,8,23 133:2,4,6	147:20 154:1,23 155:1	68:19 75:18 80:25 83:16	lot
135:4 136:23 138:22 139:3	156:7,18 157:1 158:13		16:11 25:21 57:22 67:7,13
140:14,15 145:7,9 151:5,6			69:10,14 89:4

[loud - negotiated]

loud 88:13	marriage 96:5 104:4 128:23 129:1,3	messages 12:1 153:19	mood 100:19,24 138:22	
louder 59:14	master 109:19	messenger 11:9	morning 2:3 3:14 7:24 27:24 29:20	
love 119:17 150:5	masturbating 127:20 144:8	messineo 7:10 154:4,13	50:7 51:16	
loved 129:11	match 16:12,18,19 34:25 60:22,23 66:12 70:24 79:18	met 36:20 37:1 60:17 81:22 96:2 99:5,5 123:2,4	mother 15:13,19 61:23 62:1 99:6 99:12 102:10 129:4	
lowest 155:15	matched 16:20	mic 8:2	mother's 15:16	
lucy 2:16 7:15 16:2,4 67:2 72:25 73:11,19 74:1 78:11 158:3	matching 10:11	middle 50:23 56:1 100:21 126:22	motion 3:23 110:3,25 111:1	
lucy's 72:20	material 75:18 79:13	mind 21:5,9 57:2,5,9,12,15,18,21 59:12 121:11,11 145:7,10	mouth 111:20 112:17	
luggage 73:6 123:13	math 59:2,3	mini 122:15,15 126:11	move 92:10 112:4,5 127:12 144:11 149:2	
lunch 90:8,12 91:13 92:18	matter 5:22 68:12 115:8 152:11	minimum 155:3	moves 12:8 54:4 63:25 65:16 130:4 134:17 135:22	
lying 70:22 72:7	meal 19:3,6	minute 6:5 58:9 92:16 137:12	multiple 130:24 146:11	
m				
mad 107:4	mean 40:2 46:12 63:22 84:12 100:25 115:16,21 124:18 149:11 151:13 155:8	minutes 21:25 26:3 27:14 58:8 137:20	music 125:16,17	
madness 128:14	meaning 131:8,10,13	miscommunication 4:10	n	
maid 71:6	means 151:5	misrepresented 89:22	name 10:2 14:20 28:1 57:10 62:3 62:4 75:2 87:23 119:9,10 129:13 148:7	
mail 134:6,7,12,15 135:18 137:7 145:12,15,24 147:15 148:14 149:1,5 150:3,15	mechanical 1:25	missed 119:18	named 8:24 60:3 95:6	
maintain 63:20 71:5	media 19:20 21:19	mistake 37:23	names 109:6	
making 22:12 149:9 150:25	meet 31:12 60:3 65:7 67:24 96:1 96:24 97:5,7,8,12 117:18 136:11 138:3,7	mobile 21:13	natalia 128:23	
male 112:18	meeting 62:25 65:9 98:18	mode 55:22	national 156:14	
man 57:2 96:5 104:3 131:11,11 148:4	meets 6:15	mom 99:21	near 23:12	
manager 41:6	memory 15:20 20:3 25:2 28:21 56:22 70:16 76:13 105:5,8	moment 11:16 22:1 27:19 53:5 74:16 84:15 97:15 104:23 154:23	neat 69:23 70:7	
mandatory 155:2	men 144:14,17	moments 125:14	necessary 84:1	
manhattan 122:8 123:1 124:4	menstruating 116:25	money 25:21 57:22 101:25 103:21 150:24 151:16 152:25 153:13,15,19	need 15:17 19:24 46:1 68:13 82:17 92:25 105:4,6,9,10	
manner 114:8	mention 132:17	month 10:9	needed 19:3 34:9	
mark 16:7 54:6 104:18,20	mentioned 5:14 14:17 19:25 20:6 75:25 76:1 88:23 99:24 100:1 106:23,25	monthly 59:19	needs 136:7	
marked 11:18	message 15:25 151:22 152:1,7,15,20	months 10:9 70:14	negotiate 151:4,5,10,11 152:14,24 153:5,19	
marks 116:12,23			negotiated 151:24	

[nelly - paid]

nelly	o	official	openly
92:21		134:25 135:25 136:25	132:24 133:4 153:7,12
nervous		137:25 138:25 139:25	opinion
21:11,11 69:6 75:9		140:25 141:25 142:25	40:8 141:24 142:1
nevertheless		143:25 144:25 145:25	opportunity
49:7		146:25 147:25 148:25	46:9 116:3
new		149:25 150:25 151:25	opposite
1:1,12,21 17:4,6 18:15		152:25 153:25 154:25	22:21 104:15
35:21,25 55:18 56:3 122:23		155:25 156:25 157:25	option
136:4 138:10,12		158:25	70:25
nice	objection	oftentimes	options
121:8 123:16 146:15	6:4 12:18 21:6 25:13 54:8	83:17	69:4,21,22
nicer	64:2 65:18 68:2,6,11 72:9	oh	oral
144:25	73:23 74:4,12,14 89:24	72:13 116:18 134:11	112:16,20 113:4,8 142:13
night	90:21 130:6 134:19 135:24	okay	142:19
19:16 22:8 43:14 50:6,11	146:5	5:16 11:22 12:24 23:16	order
50:21,24 51:10 55:24 56:1	objections	25:16 28:7,9,12,13,16,17	2:1,14 11:6 34:12 70:9,11
124:7	6:25 64:3	28:23 29:19,25 30:4,5 31:1	70:16,22 103:17
nina	observe	31:4 36:15 39:7,9 40:19	ordered
92:21	100:24 116:12,23	41:23 42:7 44:4 48:7 50:8	57:15
ninth	obtain	51:9,19,22 52:2 53:20	ordering
59:6	65:4	60:15 62:22 63:3 64:23	4:2,10
noes	obtained	68:8,14,15 71:8 72:13 75:4	organ
105:10	8:17 63:12,20	75:7,10 76:7 77:5,9,11,12	112:18
nonconsensual	obtaining	77:14,16 78:10,19,21,23,25	organization
133:10	94:18	79:3,7,11 80:14 83:19,24	59:8
noon	obviously	84:3 86:6 90:2,5 93:12,13	organized
67:20	4:24 5:8 6:25 17:12 20:16	104:18 105:11 106:11,14	69:1,13
normal	22:16 23:6,8,17 24:14,16	107:1,22 108:2,9 109:3,12	organizing
38:6 69:24 70:3,25 100:20	29:4 32:6 67:22 90:14,19	109:20,23 111:2,17 113:1	13:13
100:20 104:12 129:5	90:21 91:6 117:9	114:16 115:18 119:1,6	orientation
notations	occasion	120:17,21 122:12 123:4,8	17:14 18:2,10
83:10	114:15	123:19,21 124:1 125:13	originally
note	occupation	135:10 136:24 137:12,24	76:5
84:12 88:19	59:1	139:25 140:18,19 143:9	orphanage
notes	occur	144:7,9 149:7 150:11,11,15	99:13,22 102:8,10 103:14
84:11,20,21 104:17,21	141:17	150:18,20 151:13,14 157:5	118:15,20,25
105:5,7,9	occurred	old	outside
notice	137:15	8:10,17,18 14:24 82:21	27:9 51:4,6 81:10
132:16 139:1	occurring	86:13 139:14	overruled
noticed	74:10	olenia	21:7 25:14
100:18,23 101:14 138:25	october	2:20 93:19 146:10 148:6	owned
notified	17:1 105:23 121:20,21	158:11	67:1
54:22	130:15 133:12,12 145:3,11	once	p
notify	145:15 146:10,23 147:18	10:18,19 19:12 24:1 36:13	p.m.
30:20 128:8	148:14,19	48:16 55:1 93:15 123:4	157:6
number	offenses	142:4,19	pack
12:10,14 16:6 17:25 50:1	95:1	ones	24:22
56:23 68:18,22 134:3	offer	12:18,21,24	page
135:15	25:20 66:11 146:3	online	11:17,18,19 13:16,18 15:23
numbers	offered	62:16	53:15,16,19 54:5,9 64:8
11:18	19:19	open	65:23 68:17,17 69:16,17
numerous	offering	2:24 73:1 111:15 112:1,4	71:8 87:8,9,10 129:22
80:2	12:13	126:21	133:18 134:4
ny	office	opened	paid
1:4	17:24 22:20 154:10	22:23 24:13 73:4 151:25	57:22 97:9,10 103:1 121:15

[paid - posture]

paid (cont.)	partners	pertain	plead
123:9	146:12	12:11,15,19,22 13:4	95:3
pain	partnership	pets	pleaded
116:13 125:25	131:9	60:25,25	94:21,24
painful	party	phone	please
110:8 116:13,14 124:23	19:25 20:2,3 42:5,14,16	21:13 22:18 36:10,13,16	7:3 8:12 9:3,7,15 10:11
125:23,24 126:5	29:5	41:8 80:15 122:2,2,5	11:12 14:9 15:23 20:20,22
pair	passed	photo	23:8,15 27:19 28:11,15
2:17,19 5:25 9:12,16,25	25:25 136:5	53:22,24 54:1,13	53:5,14 58:12 60:9,17 62:8
10:7,11,15,23 15:6 16:18	passport	photograph	68:20 71:10 75:6 87:8 92:4
18:2 31:22 32:20 43:3	148:18,20	64:9,11	95:9,15,25 104:8 112:1,13
46:13 59:17 60:22,24 61:3	password	photographs	134:11,11 135:15 137:23
61:5 63:3 66:11,13,14 67:5	22:22	33:1 46:16,18	139:25 142:2,4 145:19
67:7 69:11 70:10,15 71:5,6	patient	photos	147:1 151:6
71:18 79:18 82:21 83:21,25	69:1	53:19	pm
84:6 85:17 86:13 136:6	pause	physical	14:6 58:11,11 91:13 92:2
137:2	6:8 27:20 53:6 105:3	113:21	123:2 124:7
pairs	154:25	physically	podium
17:5,7,17 24:24 59:19	pay	18:11 61:4,10 65:7 87:19	7:4
66:10	123:10	100:16 106:19 121:23	point
pair's	penetrating	127:14	4:1 6:17 9:3 19:9 22:1 25:7
67:9 70:17 82:8,25	127:11	pick	32:2 34:5 40:16 44:8,22
panicking	penis	23:2 76:20 97:11 103:8	50:20 60:9 81:18 83:18
23:18	112:20,20 115:23	121:25 122:9	87:25 91:1 95:10 99:3,4,6
panties	penultimate	picked	100:15 102:4 104:13,13
126:7	53:15	18:7 25:8,12 26:1,4,6,7,8	115:18 117:3,25 118:13
pants	people	36:20 50:7 51:16,18 52:2	129:2 135:7 138:20 141:19
108:8	12:11 40:12,22 107:11	72:24 88:1 97:13,14 123:5	144:2,21 149:9 154:22
panty	126:22	123:9	pointed
20:6,8 56:9 122:16,17	perfect	picking	57:2
124:20 125:21 126:11	3:5	32:13	pointing
pantyhose	perfectly	picture	110:12,12
143:20,22	70:7,9,16,22	54:17 64:13 119:12	police
paper	perform	pictures	21:15 30:14,16 118:5,10
76:4,4	112:17,20 113:4,8 142:13	119:14	120:1,5 128:8 132:17,19,25
paragraph	performed	pinned	133:5 151:17 152:13
134:23 136:3	142:19	113:24	policies
pardon	perilous	place	66:6
134:9	45:5 46:23	28:23 99:15,19 102:13,13	polite
parents	period	103:23 107:14 108:14	40:1
24:17 49:24	17:9 18:1 24:11 25:12 27:4	120:24 124:14 132:9,12	pornography
park	28:4 79:5 105:24 106:5	144:22	94:25,25 95:1
122:8,9,10 123:3,6,19	117:1	places	portion
part	perpetrated	67:3	53:2 78:6 88:1 134:23
3:17 32:12 61:7 67:6 79:11	133:11	plan	portions
113:18 119:6 139:24	person	136:10,22,24,25 153:8	45:20
participate	59:21 95:18 96:7 99:7	planning	pose
71:18	100:20,20 102:16 104:12	136:23	135:11
particular	104:12,15 117:10,11,18,19	plans	posing
9:24 28:9 34:18 36:5 59:23	119:24 129:5,6 144:19	19:22	136:13
75:25 78:6 99:14	personality	play	position
particularly	104:11 140:2,6,7,8	101:8	84:16 114:17,18
44:8	personally	plaza	possible
partner	71:20	1:11,21	16:10 155:9,12,16
130:24 131:11 146:11		plea	posture
148:5		4:7	4:11

[potential - reask]

potential 10:16 32:17 156:11	problem 136:12	provider 132:18	questions (cont.) 137:21 140:12,15,16,17 149:16 152:19 154:1 155:23
potentially 92:13	problematic 38:10	public 40:10	quickly 92:10
pound 28:8	problems 29:5	pull 8:1 49:15 112:10,24 125:11	quite 16:10 19:15 25:17,18 47:7
precisely 29:11,13,16 91:7	procedures 66:8	pulled 43:11 73:8 88:16 108:18 109:1 124:11,11,11,12 125:8,18	quote 51:22 130:21,22,24,25 131:15 134:25
prefer 144:10	proceed 2:15 5:12 6:20	purchase 107:13	r
preferably 146:14	proceeding 2:24	purchased 101:20	raise 5:19 136:10
prefers 60:24	proceedings 1:7,25 6:8 27:20 53:6 105:3 154:25 157:6	purported 81:13 132:16,21	range 123:7
prepared 97:21	process 7:2 32:16 62:25 83:11 84:11 103:7	purports 6:14	reach 40:19 49:23
presence 89:22	produced 1:25	purpose 60:19 93:10 100:4 104:1 121:7	reached 31:5 40:20 42:9
present 2:4	profile 10:15,18,24 96:3,3,23	purposes 93:11	reaching 31:9
presentation 70:6	profiles 10:16	pursuant 8:7 95:3	react 18:21 23:11
presumably 12:13 52:7 83:11	program 10:7,12 12:5 13:21 17:5,15 17:20 35:24 61:2,15 67:4 71:19 75:16 79:9	put 19:18 73:9,11 99:13,22 102:10 107:15 111:17,21 111:22 122:15,17 123:13 124:19 125:19 143:22 148:7	reacted 23:16
presume 6:16	promise 146:10 156:1	putting 141:24	reaction 23:5 42:23 56:11 118:11
presuming 156:23	promised 94:15 156:1		read 16:5,14 63:17 66:6 68:25 69:22 105:11 131:3,16 134:10,23 136:3
pretty 22:10	promises 4:16 131:10 148:4		reading 16:2 131:4 145:20
previous 35:6 119:8 120:13	promising 130:21		reads 68:19 131:7
previously 59:7 97:25 145:4 147:22 157:2	proper 6:19 109:7,25		ready 116:10
primary 59:15 104:1 118:12	properties 66:25 67:1		real 70:21
principal 118:19	proposal 6:10		realistic 70:8
print 131:7	propose 2:13		realize 155:2
printed 130:15 148:21	proposing 156:16		realized 120:24
prior 33:25 38:6 50:7 51:18 79:22 80:2,18 81:10 117:21	prosecutor 74:17		really 23:18 70:12,17 76:6 77:2 89:2 90:18 111:4,4,5 115:8 119:5,18 126:12 151:23 152:11
priority 118:24 119:1	prospect 33:11		rear 110:12,13
prison 98:3,12	prospectively 10:22		reask 28:15 75:7
private 49:2 61:8	provide 36:15 131:9 152:13 156:22		
probably 3:18 26:2 124:24	provided 36:13 63:10 146:14		
probation 7:11			

[reason - returning]

reason 55:4,12 71:15 90:25 96:9 98:10 101:1,2,12 107:5 150:23	refused 34:19 142:17	remember (cont.) 97:14 98:22 99:1,5 103:5 103:12,14 105:9 107:23 108:1,2,3,4,5,19 111:3,4 112:11 114:2,6,16 116:5,19 118:15 119:11 121:25	requesting 11:4
reasons 35:5	regard 4:7	required 68:10	required 68:10
recall 26:4 37:7 43:25 54:1,23 55:1,10 56:7,24 64:11 66:18 69:2	regarding 5:11 13:14 14:12,13 16:22 18:9,14,14 33:25 36:3 37:10 38:14 48:3 83:24 85:1 93:6 119:2,4	requirement 112:11 114:2,6,16 116:5,19 118:15 119:11 121:25 122:11 123:7,20,22 124:3,5 125:10 127:7,8,16 132:7,15 138:12 148:20,21,22 150:8 150:16 152:1,2,3,5,23 154:3,19,19,20,21,22 156:5 156:6	requirement 67:23 68:1 103:19
receive 2:6 63:17	region 59:23 79:12	remembering 29:5	research 31:25
received 4:13 72:20 115:9,10 134:12	regional 79:19	remove 49:10	researched 33:24
receptive 119:5	regular 63:12,20 67:12	renting 102:14	reservation 71:12
recess 58:11 91:13 137:14,15	regulations 66:5	repeat 20:20 23:15 57:4 84:2 109:6,10	reservations 71:17
recognize 11:23 53:22,24 62:11 129:21 134:4 145:19	related 5:24 95:1	repeatedly 57:12	reserve 6:20,24 12:23
recollection 29:9,21 75:14 111:12 150:9 152:22	relates 93:5	rephrase 28:15 75:7 137:23 148:12	residence 85:16 103:20
record 5:25 7:9 9:7 12:14 54:6 64:1 65:17 95:14 97:23 104:19 105:6 110:2 112:3 113:4 114:25 120:4 135:19 135:23	relation 114:14	replied 23:8	resist 113:10,12,17 115:25 116:1
recorded 1:25	relationship 83:25 84:6 90:14,18,24 95:23 96:1,10 99:4,8,9 100:2,4,10,13 101:18,24,24 102:3 103:8 104:3,7,8 119:8 120:13 121:8 130:25 139:9 146:12 150:4	reply 109:17,18	resisting 45:5 126:14
records 5:24	relative 5:12	report 31:1 63:9,19 65:2,6,14 75:19,22,25 76:3,8,9 84:23 118:1 151:17	respect 56:3 91:8
recover 123:8	relatively 5:3 43:20	reported 54:25 55:4	respectful 40:1
red 116:23	relaxed 6:12 69:5,8 73:17	reporter 1:20 134:25 135:25 136:25 137:25 138:25 139:25	respectfully 39:20
redirect 53:8,12 89:1,14,17 156:8 158:5,9	relaxing 30:19	relevant 140:25 141:25 142:25	respond 23:3 56:15,17
reestablish 121:7	relevant 2:23,23 92:13	reliability 143:25 144:25 145:25	responded 136:20
refer 105:9,10	relied 6:13,22	relied 146:25 147:25 148:25	response 56:12,14 109:20 136:21
reference 87:25	relief 79:7	relied 149:25 150:25 151:25	responsibilities 15:6 59:16 79:11
referring 15:25 65:23 68:17,18 105:7	relief 127:2	relief 152:25 153:25 154:25	responsible 70:10
reflect 9:7 95:15	relieved 125:6	relief 155:25 156:25 157:25	rest 11:20
refresh 29:20 75:13 76:13 105:5 150:9 152:22	remain 7:13 104:7	reports 158:25	restaurant 38:16 39:6,7,8 40:10 55:9 55:13
refuse 118:21 142:22,23	remember 14:5,24 15:2,3,22 17:23 19:4,16 21:2,4 24:5,23 25:9 36:8 37:18,20 43:4,6,8,24 60:14 67:12,14 76:11,13,14 77:25 78:7 79:4 88:1 96:2	represent 12:4 28:1	restrained 113:25 114:8
		representative 25:10 52:8	restraint 113:22
		request 11:1 56:4,12 135:9 136:15 136:17 137:7 155:17	result 49:10
		requested 10:24 92:6	return 103:1,6 104:6 106:6
			returned 27:6 102:25 103:25 104:2,9 104:10 148:12
			returning 104:1

[reunion - shelter]

reunion 27:14 118:13	romantic 100:10 117:14,15	saying 23:8 25:20 36:16 40:7,9 48:4 62:25 72:21 78:2 93:3 126:24 135:2 136:16 149:14,15 151:2	sentences 109:14 131:3
reunite 118:24 128:15	room 19:20 20:16,17,18,21,25 21:19 22:21 24:10 41:5 46:4,7,10,16,18,20 47:1 50:9,12,12,14 51:1,2 61:7 61:13 67:9,11 82:24,25,25 83:5,8 98:7,8,13 108:24 109:1,2 116:6 141:6 144:24	says 66:5 87:12 132:16 137:1 142:24	sentencing 93:10 94:19 157:3
reunited 27:11	rooms 83:17	scared 21:10,12 55:7,15 56:19 133:7	separate 61:6 67:11 76:5
review 10:16 29:23 75:13 79:15 80:18,22	rough 131:12 145:13 146:13 148:5,10	schedule 156:22,23	separated 15:15
ride 19:21 37:9,14 38:3,16 39:3 39:4 41:23 56:3 123:21	rover 8:22	scheduled 2:5	separately 54:6
right 5:7,18 6:21,24 19:21 21:4 26:13 27:9 28:14 29:2,11 29:14,17 30:7,10,14,15,16 30:17,21,22 31:1,3,6,10,11 31:19,22 32:7,10,14,17,24 33:1,8,15,18,22,25 34:5,7 34:10,13,16,25 35:3,7,10 35:13,16,18,21,22,25 36:3 36:6,8,11,18,21 37:2 38:7 38:10,20,25 39:12 40:8,10 40:14,20,21,23,24 41:3,4,6 41:7,8,9,11,14,17,18,24 42:2,3 43:6,7,9,10,12,14,17 43:21,22,23,25 44:5,21 45:8,9,11,12,13,21,24,25 46:1,7,8,11,14,15 47:5,16 47:19,22 48:13,14,16,17,21 49:6,9,11,12,19,20,22,24 49:25 50:7,9,10,15,21,22 50:24,25 51:11,12,14,15,16 51:17,19,20,23,24 52:3,5,6 52:9,10,11,17,21,22,24,25 53:4 54:24 56:6,13,16 60:12 75:25 76:1,12,21 77:24 78:6 79:20,24 81:8 81:11,14,20,22,24 82:18,25 83:2,5,16 85:7,13,18,19,22 86:18,20 87:14,16 88:6,8 88:11,20 90:9 97:25 100:6 110:9 121:6 122:16 133:5 138:25 139:22 140:22 141:1,4,8,12,14,18,22 142:17 143:11,17,25 144:2 144:5,7 152:4 153:21	scheduling 2:11 3:18 13:5 91:5	september 14:7 16:3 102:3 103:5,6,11 104:6,9 105:16,19,22 106:2 106:18 107:18 120:6 132:11 139:6,13,15,17 140:9 144:13,17 156:16	
ripped 141:3	rules 6:12	school 59:2,3 61:20,22 66:23 67:21	series 55:10 135:16
road 71:4 124:4,11 125:8,11,13	run 45:2 83:8,10	scream 28:8	serious 104:3 152:11
robert 1:10 3:13	rundown 20:18,25 46:7	se 3:2	seriously 154:20
role 59:10 72:18	running 45:2	seated 60:12	serve 9:12 10:22
	russian 128:23 129:7	seattle 106:14 117:12,18 118:4 120:23,25	service 8:22 46:13
	s	second 53:16,18 54:5 64:7 84:13 107:17 120:19 121:17,19 121:20,22 128:19 136:3,17 139:16 143:16	set 10:14,14 11:7 157:3
	safe 85:19	secure 103:20 133:2	setting 44:24 82:21 85:4,6
	safety 34:15	seeing 45:23 54:2 64:11 98:12	seventh 59:6
	sake 104:18	seen 27:13 98:2,4 104:23	sex 112:16,20 113:5,8 138:18 139:11,12 142:13,19 145:13 146:13 148:10
	sandy 26:24 52:23	segment 38:17	sexual 100:13 115:19 131:12 132:2 133:9,10 148:5 149:10
	sat 21:18,24,24 47:1 66:21,22 66:22	selected 35:5 79:18	sexually 106:19 121:23 131:19 154:14
	satisfaction 115:9 132:5	send 101:25 145:11,25 149:1 150:3,15,24 151:22 152:15 152:20,25 153:19	sh 26:8
	satisfied 34:13,16 35:12,15	sending 152:1,10	share 61:18
	satisfying 127:1	sent 100:2 101:18 134:6 137:8 145:15,25 146:1,1,2,20,23 148:14 152:4,5,6,8	shared 61:8
	save 93:15	sentence 3:24 155:15	sheet 75:15
	saw 3:6,15 27:9 54:13 73:4 75:15,24 83:7 85:12 99:7 119:23 120:9,10 128:20 129:4,4,8 144:15		sheets 62:14
			shelter 99:16

[shelves - stay]

shelves	64:13	similar	66:3 74:9	sloppy	70:14	special	154:3,4,12,13
shirt	47:19,21,21 60:11	simple	76:6 77:3,13,15	slowly	69:8	specific	92:7 114:10 123:25
shock	99:22	simply	108:1 120:25 121:1	slumping	128:4	specifically	14:5 53:15 92:8 101:9,19
shocked	18:22 25:17 99:23 125:2,3 126:15	simultaneously	98:10 127:17	small	123:12	102:8 103:10 104:4 112:17	112:23 118:3 119:4 122:11
shoes	70:22	sincere	119:16 120:10	smithtown	66:19 98:23	122:14 135:8 136:17	141:21 151:21 153:10
short	115:4	sincerely	129:13	social	59:20	spend	139:7
shortly	24:9 26:14 65:10	single	61:19 67:16 152:9	sofa	49:16	spent	50:6 61:20 98:19 101:15,16
shorts	47:5,8 48:3,5,6,11 108:8	sir	74:21 86:22 100:9		72:3	spilled	144:5
shot	29:9	sister	43:2 88:24 89:9	softer	121:8	spoke	16:9 24:4 42:14 47:24
shots	39:16	sit	24:8 57:1	sold	135:3	spoken	65:11 69:8 154:8
shoved	144:7	sitting	3:15 77:23 95:8,16 114:22 124:13,14	sole	82:14	squeeze	3:19 5:11 27:13 41:2,5 98:5
show	46:3 62:7 119:13 128:5 129:15 139:17 145:17 147:21 150:8,10,12 152:21	situation	23:21 24:4,18 38:10 45:5 49:11 61:17 74:9 78:7 90:3 99:18 133:5	son	99:5,8 120:10,12,13,16 136:5	stand	7:13 29:19 75:12
showed	19:17 20:16 45:13 67:9 82:2 139:18	skin	126:4		72:5 150:5	standing	7:13 73:3 92:24 114:13
showing	15:24 67:2 119:12 129:20	skirt	122:15 126:11	sorry	8:13 20:19 23:14 37:23 42:11 45:15 57:4 60:16 62:4 69:17 73:19 76:19 84:18 86:6 87:9 105:17	start	79:3 90:17 91:2 109:5,16
shut	73:10	sky	16:7		110:9 126:20 127:3,4,6,24 128:3,6,7 138:5 144:4,8 146:22 150:12	started	22:24 25:2 96:9 108:10,12 108:17 123:18 125:1 149:9
sic	81:13 96:18 141:15	skype	11:5 13:21 14:1,4,10 15:1,4 16:17 23:9,9 24:1,12,16,18 25:10 33:15,17,25 34:22	sort	20:2 25:21 94:12 118:1 128:8 129:22 130:20,23	starting	11:19 106:2
sick	24:17	skyped	34:21	sounds	20:11 127:19	stated	2:1 46:7 88:5 152:7
side	114:13 124:12 125:12	skyping	73:1	south	2:8 37:23 38:1 119:8	statement	29:24,25 30:3,9 31:17,19 140:1 152:25
sides	3:19 5:11	slammed	26:12	space	61:6,9	statements	153:3
sign	87:19,21 130:13 145:8,9 147:25 148:1	slap	109:24,25 110:10	sparks	70:15	states	1:1,3,8,11 9:19,20 10:3 13:6,15 16:25 17:12,25
signature	129:24 148:2	slapped	113:13,14 141:10	sparse	67:13 83:17		19:23 26:15 31:14 54:22 55:16 57:6 59:21 97:3 102:6,7 103:2,25 104:1
signed	87:14,15,18,22 130:2 146:21,23 147:15 148:3,9 148:21	slapping	110:3,10	speak	8:12,23 14:3 46:10 73:12 73:12 74:7 80:25 143:13 154:7,9	stay	105:20,21 138:7 144:12,18 149:23,24
signing	148:22	sleep	22:8	speaking	24:12,21 38:11 59:12		17:6 26:17 31:8 98:24 100:23 105:18 106:1
sim	122:3	sleeping	51:11				108:12 117:8,12,13,17 130:16,18 131:24 132:9
		slightly	21:2				

[stay - things]

stay (cont.)	subdued	swings	tell (cont.)
138:14 141:1	113:21	100:24	102:18,23,24 107:1,21
stayed	subject	sworn	109:18 112:15 113:10,12
17:4 25:9 27:3 30:19 52:13	6:11	7:17 58:18 92:22 93:17,21	113:17 118:21 119:14,19
98:23,24,25 99:10,25	submit	s [REDACTED]	120:14,18 122:7,14,16,17
105:21,22,23,24 116:8,8	63:15	14:21,22 15:15,16 18:14,17	123:24 131:3 132:3,4
121:17,20	subpoena	54:19 57:10 62:5,5 64:19	136:14 137:4,23 142:6,9,10
staying	8:7	72:4	145:19 147:2 149:5 151:15
46:21 52:7 99:17 103:12,24	subpoenaed	[REDACTED]	154:6,15,18 155:19
107:3 116:7 117:16 119:13	58:24	14:22,25	telling
stenography	substance	system	25:18 72:2 102:17 122:11
1:25	88:5	87:2	136:24 153:18
step	successful	t	temper
33:10 58:4 90:5 156:10	129:3	tab	100:21,25 138:20 139:17
stick	sudden	62:9	ten
111:13,14	70:17 100:21	taken	98:25 101:15 128:24
stickers	suddenly	58:11 91:13 137:14	137:12 138:17,18,21,24
93:15	30:23 107:4 124:10	talents	tend
stipulate	suffering	136:5	136:6
143:14	115:7	talk	term
stop	sufficient	24:3 30:3 31:3 33:13 39:7	20:8 47:15,16
19:21 49:13 77:3 78:12,12	6:21 95:19	50:6 78:10 95:23 97:22	terms
86:5 100:6 110:9,23 150:13	suffolk	98:11 105:16 106:16,17	2:14 30:20 32:9 38:10
stopped	59:24,25	116:9 118:23 120:19	90:22
115:6,8 124:10	suggestion	talkative	terrific
stormed	2:24	69:7	70:24
57:19	suitability	talked	testified
storming	71:12,18	66:23 78:13 97:16,24	7:17 46:6 47:4 58:18 93:8
25:22	suitable	talking	93:21 140:5 155:22
story	119:24	16:16 18:13 24:5 101:10	testify
102:16	sum	102:21 115:22 123:16	3:20 4:3,4,8,11 58:24 90:25
straight	88:5	141:20 148:8	94:2,7,10,13 105:8 109:8
19:17 22:7 125:7	summer	talks	testifying
stranger	97:1 98:16,19,20 102:6	13:21	94:4,18 127:19
117:23	support	tanktop	testimony
street	101:21 131:9	21:22 47:9,10,14	2:11,23 3:1 4:1,5 8:8 28:3
44:2 117:9	supposed	task	29:8 75:3 76:10 77:19,25
strictly	123:10	122:12	86:10,15 88:2 94:16 97:16
4:21	sure	taught	97:18,21 125:18
stroganovka	3:11 6:7 16:7 51:8 75:8	44:23 45:1,4,6,7	texas
103:14	76:23 80:13 84:5 104:24	taxi	97:4
strong	116:24 119:1 137:9 151:9	122:7 123:6,6,11,12	thank
131:9	152:21 154:24	teach	5:17,21 7:20 8:3,14 28:17
structured	surprising	59:6 136:4 137:1	53:7 58:3,4 84:19 89:12
81:4	155:18	teacher	90:6 91:12 137:11 157:1,5
studies	surroundings	59:2,3	theater
8:16	14:15	tear	108:23,24
study	suspicious	126:7	theirs
35:6 46:13 85:15	79:16 81:16 101:13	technically	10:20
stuff	sustain	2:22	thing
35:16 69:14 91:9	68:5	tell	25:21 66:5 81:6 87:20
style	sustained	9:15 14:17,22,25 15:5,12	115:22
146:14	13:10 68:3,5 72:10,12	15:18 18:16 20:4 24:7	things
subconscious	73:24 74:5,15 90:1	42:16,20 56:18 61:16,23	4:5 25:2,20 29:6 41:16 45:1
133:1	swear	62:1 66:20 67:20 73:19	69:11 76:11 84:25 144:23
	92:20	78:24 95:25 98:18,19 102:1	146:16

[think - ukraniandate.com]

think	time (cont.)	touch	true
16:8 35:22 55:6 64:12 73:6 73:8,9,13 76:16 92:9 96:19 96:19,19 97:2 104:10 107:22 109:25 111:10,10 111:11,16 116:14 121:19 126:9 129:12 132:25 133:1 133:3,6 136:10 141:19 143:9 144:20 150:5 152:11 154:19	103:22 105:17,23,24 106:5 106:12,17 107:20 112:8,9 112:13 117:1,25 120:22 121:17,19 122:5,22 126:24 128:13 132:10 134:11 138:15,17 139:7,12,16 140:22 143:16,19 146:1,3 152:12 154:12 155:9,11	22:3 41:17,20,21,23 42:1 48:22,25 49:2	54:1 130:1,23 134:15 135:17
thinking	timeline	touched	truly
128:22 141:19	75:17	22:2,4 41:22 48:16 57:13	129:11
third	times	touching	truth
2:20 4:24	4:19 15:16 23:7 28:19 50:1 79:22 98:13 110:18 139:19 139:20	53:2	72:2
thoroughly	tired	tour	truthfully
131:15	22:10	20:12,14 45:11	109:8
thought	title	town	try
71:20 76:10 84:18 101:3,3 101:4 128:11 129:4 135:12	65:24	123:21	16:9 48:25 49:2,5,18 50:14 50:17 52:20 60:23 63:2 75:9 111:22 115:20 147:10 151:4
threatened	tkach	tracking	trying
150:24	92:21	75:15	22:3,4 24:23 42:18 112:2 127:8,9 128:5 136:22 155:15
threatening	today	trained	turn
40:5 88:15	2:15,21 3:16 4:20,24 8:23 9:1 27:9 57:1 58:24 60:7 75:24 86:2 90:10 93:12 94:16 95:9 97:24 156:22	36:3 80:5	11:12 15:23 53:14 62:9 64:7 87:8 127:10 129:19 140:14
threats	today's	training	turned
90:23 93:5	98:2	17:11,18,20 18:1 35:24	127:2,3,6,12 128:2
three	told	transcript	turning
4:19 60:23,24 70:9 106:2,3 106:4,4,5,11 107:17	17:20 37:4 42:16 47:13 57:3,6,9,22 61:18,20 66:23 66:25 99:21 102:19 103:10 107:5,6,7,9 109:3,4 112:21 112:21,25 113:2,11,14,15 113:19,20 116:1,2,9 117:3 118:22 119:7,7,9 120:12 127:24 128:6,25 132:5,12 132:23,23 133:4,5 137:3 140:23 149:2,6 150:2 153:7 153:9,12 154:20,21,21	1:7,25	69:16 153:20
throw	tomorrow	translate	tursi
49:15	149:4	151:7	1:20
thumb	tone	translator	twice
11:16,20	73:16 121:4	151:6	98:4
ticket	top	transmission	twilight
101:20 107:13	41:20,22 47:10 48:18,19 53:2 65:24 108:4 114:22	94:25	124:9,9
tidy	topic	transpired	type
70:15	92:7	78:1	65:12 66:14 81:6
tied	topics	transportation	typed
113:24 114:8	92:7	55:22	87:23
tight	tops	travel	types
24:8	26:3	8:7 9:18 10:10 16:24 26:22 146:15	66:10
till	totally	traveled	typical
105:22 116:9 121:20 125:5 125:6	77:25 148:19	67:7	70:20
time		traveling	u
4:6 9:22 10:21 14:23 21:5,9 23:2 24:11 25:12,25 27:4 27:17 28:4 29:5 31:10 32:2 34:24 35:20,21 37:1 38:17 40:16 41:12,15 42:4 43:1 48:8 50:11,14,17 51:10 52:16 61:20,21 66:6 67:18 67:21,24 69:20 71:16 72:15 74:18 78:13,14 79:4 80:1 82:17 93:15 96:11,14 97:3 98:19,24,25,25 99:12,14 100:15 101:10,14,15 102:8	131:14	uh	
		68:15 97:9 100:17 103:1 105:21 106:8 120:19,22	151:14
		trouble	uk
		145:20	8:20 10:4 22:24 23:2,23,25 24:2 30:1,9 31:5 37:16,21
		troy	ukraine
		7:10	96:11 99:13,16 100:2 101:18,22 102:14,25 118:20 136:12,18 137:7 139:4,5 148:15,17,23 149:20,22
		154:3,13	ukrainian
		truck	146:14
		73:10	ukraniandate.com
			96:18

[ultimately - went]

ultimately	v	viber	want (cont.)
23:24		151:22 152:6	142:18,18,21,25 143:7
um		video	145:17 147:7 149:2 150:12
137:1 138:10,12 141:20		13:23 149:17 152:8	153:13,15 154:23 156:20
umm		videos	wanted
16:1 26:25 31:23 35:19		143:12 149:9,25 150:25	4:9 20:4 21:25 34:5 50:24
36:12 38:15 39:22 75:11		view	55:6 72:22 82:12 97:7
115:24		10:14,19 11:4 33:3 75:5	106:16 107:6 108:15,16
unclear		81:18 85:12 99:6 129:2	109:17,20 113:6 117:5
75:6		144:21	119:5 122:5,14 128:15,19
uncomfortable		viewed	133:2 134:25 135:11
44:19,20 46:22 49:21 72:22		10:24	136:23 142:14 145:9,23
112:2		viewing	147:25 149:14 150:4
understand		11:3	152:25 153:19
2:21 12:13 20:19 23:14		violence	wants
28:5,14 32:23 44:12 47:7		90:23,23 93:4,5	2:25 66:14
54:16 65:25 73:13 88:6		visa	wardrobe
92:12 93:1,13 101:2 122:20		16:23 150:17,19	21:2
124:24 125:3 128:12		visit	warning
137:22 138:1 140:20		98:17 100:5,15 103:15	125:15
146:22 149:15 152:11		105:16,19,19 121:18,22	wear
155:14		visited	20:5 56:5,18 122:16
understanding		9:20 106:18	wearing
9:11 16:16,17 135:10,11		visiting	9:4 20:6 42:21 47:4,8,9
understands		98:13	48:4,8,10 60:10 95:11
3:11 4:16		visitors	108:7 125:21
understood		98:7	wearings
91:4		voluntarily	95:12
underwear		94:4	website
48:4,7 122:18 126:11		voluntary	11:8 12:2,6 54:14 96:2,16
united		4:2,21	117:19
1:1,3,8,11 9:19,20 10:3		volunteer	week
13:6,15 16:24 17:12,25		154:17	2:7 18:3,9,15 22:9 26:15
19:23 20:8 26:13,15 27:6		w	30:19 35:24 52:7 61:21
31:14 54:22 55:1,16 57:6		wait	106:5 121:20 156:16
59:21 97:3 102:6,7 103:1		62:21 145:17	weekends
103:25 104:1 105:20,21		waiting	15:10
138:7 144:12,18 149:23,24		25:12 102:2,2 123:5,5,6	weeks
unquote		walk	4:13,13 99:1 100:8 106:2,3
51:22 130:21		21:1 116:13,15,16,17,18,19	106:4,4,11 107:17
upbringing		walked	weird
14:11		22:17	71:22 86:3,7,12,18,20
upset		walking	weirdly
72:21		19:16 150:13	73:18
upstairs		want	welcome
19:17 22:20 45:14,16,18		3:9,10,24 4:9 5:8 8:23	28:18
49:11 116:6		10:18 15:23 44:12 63:1,3,3	wellbeing
use		67:5 70:9 71:1,6 77:10	51:25
6:25 20:8 22:18 41:8 47:18		84:23 90:17,18,22 91:2	went
63:5 66:11 70:5 109:14,23		93:3,9,12 95:6,23 97:23	4:19 16:17 19:6,15,19
110:6,20,22 111:14 112:16		102:21,23 106:12 108:15	21:18 22:7,10,13,20,21,23
114:10 124:15 125:1		109:9 112:22 113:8,12,14	26:9,10 35:9,20,24 47:1
127:17 141:15 145:19		113:15,17 117:8,23,24	66:15 72:15,24 73:5 81:8
		118:23 119:3 120:19	81:20 82:25 88:4 99:15
		129:15 131:2 134:3 135:9	116:6 139:5
		136:4 139:9,25 142:13,17	

[whore - young]

whore 109:13 141:14	working 33:11
wi 22:22,24	works 10:12
wife 21:21 47:10,12,14,15,21 61:18 128:23 129:3,7	world 137:10
wild 128:1	worse 56:19,20
willing 4:4 16:18 52:20	write 31:1 61:11 65:12 69:13 76:8,9 84:20 146:18
window 61:11 67:10	writing 4:17
wish 2:15 5:19 90:20	written 84:20,21
wishes 4:4	wrong 24:14,15 88:6 99:9 141:25
withdraw 38:11 130:22 140:4 143:4	wrote 84:10 86:24 131:1 146:9
withdrawn 16:19 73:19 97:5 101:7 105:17 107:1 116:3 122:22 127:23 137:5	y
witness 2:20 4:24 5:20 7:13 9:7 12:12,19,22 20:21 23:16 25:16 29:19 44:16 58:6,7 58:12 68:8,15 72:13 75:12 90:7 93:2,13,17 95:15,17 105:11 110:2,5 112:14 114:1,4,24 126:2 129:16 142:8,11 143:7 147:6,12,18 156:21,21	yeah 145:6
witnesses 2:8,14 3:16 5:1,2 156:14	year 10:8 60:1 82:21 86:13 103:2 139:6,13
woke 22:14,15	years 8:18 14:24 28:24 29:1,21 29:24 30:1,7,10,23 43:5 56:23 128:24 129:7 155:3
woman 119:8,11,20 120:11,12 124:24 126:10 136:9	yell 28:7
wondering 18:22	york 1:1,12,21 18:15 35:21 55:18 56:3 122:23 138:10 138:12
word 44:18 88:10 109:25 132:17 151:5,8,13	Yorker 17:4,6 35:25
words 46:7 47:12,18 51:21 141:15 141:23 145:14,21,22,22	young 54:16 82:21 88:24
work 2:17 10:8 22:18,19 26:19 35:2 75:23 76:4,5 156:17 156:18	
workable 60:22	
worked 2:19	